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THE THIRD U.N. LAW OF THE SEA
CONFERENCE
GENEVA SESSION
MARCH-MAY 1975

REPORT TO THE SENATE

BY

SENATORS CLAIBORNE PELL, THOMAS MCINTYRE,
CLIFFORD CASE, CHARLES MCC. MATHIAS, JR.,
AND TED STEVENS

WITH ADDITIONAL VIEWS BY SENATOR MIKE GRAVEL



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CONTENTS

	Page
Letter of transmittal.....	v
Background.....	1
Accomplishments of the Geneva Session.....	2
Committee I.....	2
(1) Powers of an Assembly vs. Powers of Council.....	3
(2) Rules and regulations.....	3
(3) System for exploitation.....	3
(4) Production controls.....	3
(5) Composition of Council.....	4
Committee II.....	4
Committee III.....	4
Settlement of disputes.....	5
Conclusion.....	5
Additional Views.....	7
Appendix:	
United States Delegation Report.....	9
Informal Single Negotiating Text.....	25
Part I.....	25
Part II.....	67
Part III.....	117
Part IV.....	142

(III)

LETTER OF TRANSMITTAL

U.S. SENATE,
Washington, D.C., August 5, 1975.

Hon. JAMES O. EASTLAND,
President Pro Tempore, U.S. Senate,
Washington, D.C.

DEAR SENATOR EASTLAND: We had the privilege and responsibility of advising the United States Delegation to the Third United Nations Law of the Sea Conference in Geneva during March-May, 1975. Involved in these negotiations are a wide-range of marine issues including: the width of a nation's territorial sea; the fishing rights of coastal nations; the preservation of the marine environment; mineral rights; the freedom of passage of commercial and naval vessels and aircraft; the regulation of scientific research; and the resolution of conflicts concerning these issues. We believe that the nations of the world must make every reasonable effort to resolve their differences on these critical ocean problems. The time for reaching an agreement is rapidly decreasing. It is imperative that the Conference be concluded as rapidly as possible, as any further delays will seriously jeopardize the success of these negotiations.

This report to the Senate consists of two parts. The first section is a joint report presenting our general observations and conclusions. The second section is an appendix containing the informal single negotiating text and the U.S. Delegation Report.

Also included in this report are additional views of Senator Gravel.

Sincerely yours,

CLAIBORNE PELL.
THOMAS J. MCINTYRE.
CLIFFORD P. CASE.
CHARLES MCC. MATHIAS, Jr.
TED STEVENS.

THE THIRD U.N. LAW OF THE SEA CONFERENCE

Geneva Session, March-May 1975

BACKGROUND

The Geneva session of the Third United Nations Law of the Sea (LOS) Conference represented the second substantive session¹ of a negotiating process which hopes to arrive at an international legal regime governing all the various uses of the oceans. Among the more important issues to be resolved at this Conference are: (a) what should be the division of jurisdiction between States and the international community with respect to the resources of the seabed, the living resources of the sea, and various uses of the sea; (b) whether a wide economic resource zone should be established, and if so under what restrictions for the benefit of mankind as a whole; (c) whether and under what conditions should the width of the territorial sea be fixed at twelve miles, and in particular what arrangements should be made for international straits; (d) whether and to what degree exclusive or preferential fishing rights should be enjoyed by coastal States, and in particular to what degree the "historical" rights of other fishing States should be protected; (e) what arrangements should be made to preserve the marine environment and to protect it against pollution and other hazards; (f) how to ensure the greatest freedom for the conduct of scientific research in the oceans for the benefit of mankind as a whole, taking into consideration the need to contribute to the scientific, economic and social progress of the developing countries; and (g) what international institutions should be established to ensure an equitable sharing by all States in the benefits derived from exploiting the resources of the sea and the seabed and to protect the common interest in other uses of the sea.

Experts have compared this Conference with an effort to combine in a single negotiating process the issues before the Stockholm Conference on the Environment, the SALT negotiations, the U.N. Energy Conference, and the Rome Food Conference. It might seem that the creation of an effective legal regime for matters as diverse as shipping, military transit, environmental protection, conservation of living resources, and the exploitation of petroleum and hard minerals should by necessity require the separation of each issue from the others and consideration of it on its own merits. However, the LOS Conference is attempting to resolve these issues in a single comprehensive political package thereby increasing the complexity of the negotiations.

In addition to the difficulties involved in negotiating a "package deal" on a multitude of various agenda items, another factor complicating this Conference is the large number of nations participating. In Geneva, there were well over 140 countries present.

¹ The first phase was concluded in Caracas (June-August 1974). A report on that session was submitted to the Senate February 5, 1975, by Senators Pell, Muskie, Case and Stevens.

Consequently, progress has been exceedingly slow. The original target date for the completion of the Conference was the end of 1975. However, it is obvious that the schedule was overly optimistic and plans are now being made for a third eight-week session to be held in New York beginning March 29, 1976, and a possible fourth session later in 1976. Many experts believe that other sessions in 1977 and possibly 1978 will be necessary before the Conference will be able to agree upon a single "comprehensive and widely acceptable" treaty.

The following is an attempt to highlight some of the accomplishments of the Geneva Session.

ACCOMPLISHMENTS OF THE GENEVA SESSION

The single and most important achievement of the Geneva session was the preparation of an informal negotiating text of treaty articles by each Committee chairman covering the subjects entrusted to that Committee. It should be noted that this document is informal in character and does not prejudice the position of any delegation nor does it represent a negotiated text or an accepted compromise. It is merely a procedural device to be used as a basis for future agreement.

However, in view of the fact that this negotiating paper presumes to consider all the formal and informal discussions held so far, it is a reflection of the latest stage reached in the negotiations. In that sense, it should be reviewed carefully with respect to its content concerning vital U.S. interests.

The single negotiating text deals with agenda items as they were allocated to the three Conference Committees, and an informal Working Group on the settlement of disputes. The First Committee is responsible for seabed mining beyond the limits of national jurisdiction. The Second Committee, probably the most important from a U.S. perspective, deals with a variety of issues including the territorial sea and straits, the economic resource zone, the continental shelf, fishing and navigation. The Third Committee handles marine pollution and scientific research. The following is a short outline of some of the major issues contained in each of these Committees and the Working Group.

COMMITTEE I

The Committee has been, at least until the present time, the most ideological of the three LOS forums. The so-called "group of 77 developing countries" (which actually number 106) spurred on by the success of the Arab oil boycott hopes to establish a "new world economic order" with respect to the deep seabed resources. Many of these nations view this Conference as one of the first steps in redressing what they perceive as the present imbalance in the international economic system.

However, many other nations have yet to focus serious attention on Committee I issues. The mandate of Committee II has been perceived, particularly by the developed nations, to be of considerably greater import to national interests' than the mandates of either Committee I or III. Consequently, Committee II has been the scene of the most intensive discussions, and, a broadly accepted basis for future negotiations has emerged. We anticipate that delegation leaders will now devote greater energies to the impasse which exists in Com-

mittee I and that the divergent views expressed in that forum can, ultimately, be merged into an acceptable agreement.

The U.S. has taken the position that access to the resources should be guaranteed on a nondiscriminatory basis under reasonable conditions that provide the security of expectations necessary to attract investment for development of these resources. This would generate international revenues to be used for international community purposes, particularly for the lesser-developed nations. Developing countries have supported a concept under which an International Seabed Resource Authority (ISRA) would itself undertake exploration and exploitation and which would have discretion to contract with states and private companies to operate under its direct and effective control.

The following is a brief description of some of the controversial issues being discussed in Committee I.

(1) Powers of an Assembly vs. Powers of a Council

The preponderant less-developed country and single text view is that effective power in the new international organization should rest in an Assembly in which all parties have one vote. The U.S. and several other developed countries maintain that a Council, of limited membership, should exercise fundamental control over the operations of the Authority (ISRA). The U.S. explains its position in terms of the pragmatic necessity for having a smaller, permanent body deal with the urgent operational matters arising from the Authority's role as resource manager. The U.S. has expressed its willingness to give the Assembly broad recommendatory powers as an alternative to other delegations' desire to give the Assembly policymaking functions.

(2) Rules and Regulations

In explaining the U.S. position on the Council's role in the Authority, the U.S. has repeatedly emphasized the need for including in the treaty text basic rules governing resource exploitation, thus withholding even from the Council broad policymaking powers. At Geneva, the U.S. agreed to consider basic conditions of exploitation as opposed to detailed regulatory provisions (on the condition that detailed rules would be adopted for the provisional period). The single text does not reflect the U.S. position on this issue.

(3) System for Exploitation

Certain Latin American and other developing states are advocating a detailed proposal on an Enterprise concept. In essence, their proposal would establish an Enterprise as an operating arm of the Authority (ISRA) *exclusively* empowered to exploit the deep seabed, either through service contracts or joint ventures with companies or states. However, these nations were unable to garner unanimous support for their exclusivity concept within the Group of 77. Consequently, the single text contains a dual system for exploitation which could later lead to the Enterprise taking exclusive powers. The goal of the U.S. is to avoid a subjective and possibly discriminatory licensing policy.

(4) Production Controls

Although there has been little serious discussion of price and production controls, proposals range widely from mere recommendatory

power to authority to reduce production and to fix price levels. The U.S. opposes granting the Authority any powers in the area of production controls. However, certain articles in the single text imply that such controls could be approved by the Assembly.

(5) Composition on the Council

This is one of the most contentious issues in Committee I. Many less-developed countries have made it clear that they will strongly support a Council consisting of countries selected on an equitable geographical basis and in which decisions are made by a two-thirds majority. The U.S. and several other developed countries, on the other hand, have stressed the need for some formula by which those countries which will have the greatest involvement in deep seabed mining will be assured that their views will be given proper weight. The single text contains a partial accommodation to the U.S. point of view.

COMMITTEE II

From the U.S. position, this portion of the single text represents a fairly balanced basis for future agreement. It outlines a basic agreement on a 12-mile territorial sea, unimpeded passage through straits, and a 200-mile economic zone with sovereign rights over living and non-living resources and special treatment for anadromous species (salmon).

The primary problems still facing Committee II are:

- (1) the right of access to the high seas for landlocked states;
- (2) the access of landlocked and geographically disadvantaged states to fisheries in the economic zones of neighboring coastal states;
- (3) the need for special treatment of highly migratory species (tuna);
- (4) the jurisdiction over the continental shelves which extend beyond 200-miles from coastal states;
- (5) the status of islands with respect to determining national boundaries and economic resource zones; and
- (6) the formula to be used in determining national boundaries and economic resource zones of archipelago states.

The U.S. Delegation believes that most of these problems can be successfully resolved during the next phase of negotiations.

COMMITTEE III

The scientific and environmental issues dealt with in this Committee have received less attention since their resolution is tied to, and is generally perceived to be less important than the economic, military and resource allocation issues before the other Committees. The single text in this area (a) subjects scientific research to an absolute "consent regime" (a position opposed by the U.S.) and (b) contains various non-controversial environmental matters concerning land-based pollution, monitoring and environmental assessments. Unfortunately, environmental matters are considered low-priority issues on the Conference agenda and have been treated as such. The danger in this approach is that the efforts of certain countries (including the U.S.) to protect the passage of vessels from discriminatory coastal environ-

mental standards and enforcement measures might result in treaty articles which weaken our strong existing domestic legislation. The U.S. Delegation should take all the steps necessary to avoid this consequence.

SETTLEMENT OF DISPUTES

The single text is unclear whether there will be a comprehensive dispute settlement mechanism or whether each issue will be dealt with separately. The question of the relationship of coastal state resource jurisdiction and the acceptance of dispute settlement procedures is a particularly sensitive subject. Consequently, there is currently no agreement on what the scope of such a mechanism will be within the economic resource zone. It is also unclear whether the machinery for resolving disputes will be the International Court of Justice, an arbitral body, or a new Law of the Sea Tribunal. The single text sets forth a procedure which permits states to elect to accept one or more of these mechanisms.

CONCLUSION

The most noteworthy action of the Geneva Session was the preparation of an informal single negotiating text of treaty articles on all of the items listed on the Conference agenda. Although the Administration has made a concerted effort to stress that this document is informal in character and does not represent an accepted compromise, it is in fact a reflection of the latest stage in the LOS negotiations and will be used as a take-off point for future compromise. Bearing this in mind, it is imperative that the U.S. Delegation undertake a thorough analysis and evaluation of this document in order to determine: (a) whether a treaty can be timely concluded; (b) whether an agreement along the lines of the single text represents the best overall interests of the United States; and (c) whether there is a point, and if so, where that point is, beyond which U.S. interests would be better served by no agreement.

With respect to the issue of timeliness, the introduction of a single negotiating text may be instrumental in speeding up the negotiating process. However, judging from the current impasse in Committee I, it is apparent that the Conference is far from the point of agreeing upon a "comprehensive treaty" which can be "widely accepted." Final agreement, if at all concluded, may be two or three years off. Consequently, it is essential, at this time, that the Administration work with the Congress to take legislative actions necessary to protect and conserve on an interim basis, the living resources off our coasts. Therefore, we urge the Administration to actively consult with the Congress to develop domestic legislation which will have minimum ill-effects on the international negotiations and yet provide the maximum protection for our country's fishery resources.

We should note here our reservations regarding the advisability of including in any such interim arrangements (or in an eventual Law of the Sea Treaty) any clauses granting special legal status to those nations which fish for anadromous species outside of the 200-mile economic zone, on the basis that these countries will experience some form of "economic dislocation." It is particularly disturbing that the single text provides that the determination of "economic

dislocation" will be made by those nations which now fish for anadromous species on the high seas, a practice which is questionable from both a management and conservation point of view.

We should also note that the single text while representing progress in some areas, is at least, at the present time unacceptable with respect to the exploration and exploitation of deep seabed minerals and to a lesser extent in the area of pollution control. The failure of many countries, thus far, to exhibit a genuine will to reach an accommodation on issues essential to the United States is of particular concern to us.

Finally, we would like to express our respect and appreciation to the U.S. Delegation which has strived so hard to obtain a widely acceptable agreement in a truly difficult negotiation. However, it is our belief, that the negotiations have reached a stage where far-reaching political decisions must be made. Therefore, we again urge the Secretary of State to take personal command of these discussions, and to elevate the negotiations to a level where the necessary political compromises may take place. In conclusion, we will continue to fully support the U.S. Delegation in their efforts to achieve U.S. interests in an equitable international agreement on the Law of the Sea.

ADDITIONAL VIEWS OF SENATOR MIKE GRAVEL

U.S. SENATE,
COMMITTEE ON PUBLIC WORKS,
Washington, D.C., August 5, 1975.

Hon. JOHN SPARKMAN,
*Chairman, Foreign Relations Committee, Dirksen Senate Office Building,
Washington, D.C.*

DEAR MR. CHAIRMAN: I welcome this opportunity to report to the United States Senate on the 2d Session of the Third Law of the Sea Conference, held March-May 1975, at which I was privileged to attend as an observer. The community of nations is attempting to write an international legal charter regulating the multiple uses of the oceans, a task which has been extremely difficult and unprecedented in scope. Following the first session of the Law of the Sea Conference in Caracas, Venezuela during the summer of 1974, many observers felt that both the negotiating pace and the substantive progress were so slow as to threaten an end to world efforts at writing an ocean charter.

However, at the 2d Session of the Third Law of the Sea Conference, substantive progress was made in the many discussions and debates. The members of the U.S. delegation are to be commended for their fine efforts and the work they accomplished. I do not share the pessimism of my Senate colleagues, especially with regard to the matters before Committee II. An agreement can be reached by the members of the United Nations with regard to law of the sea matters. An agreement can be reached within a reasonable time. However, unilateral action by the U.S. Government might seriously jeopardize current negotiations with serious results, further aggravating the efforts to protect and conserve our coastal resources.

I would emphasize that it is only through negotiated and internationally accepted law that the rights of coastal States with regard to living resources, especially anadromous species of fish, can be protected and enforced. I firmly believe that it is in our best interests to secure international cooperation and agreement in this serious and important matter. It is thus all the more important that we summon the patience, the creativity and the reason to secure an international instrument which will guarantee a regular process by which the special concerns of coastal States with regard to fish resources can be dealt with fully, adequately and equitably. The rule of law, internationally adopted and accepted, is the most secure and lasting framework within which we can act.

I join with my colleagues in expressing support and appreciation to the entire U.S. delegation which has worked to secure agreement in an area of unprecedented scope and difficulty. I join with my colleagues in also urging the many nations of the world to seriously and expeditiously complete these matters, especially in light of the seriousness of present problems and of the need for effective international action.

I want to thank my Senate colleagues for this opportunity to present these views and to commend them for their excellent work and interest in this extremely important endeavor.

Sincerely,

MIKE GRAVEL.

APPENDIX

THE THIRD U.N. CONFERENCE ON THE LAW OF THE SEA

Geneva, March 17-May 9, 1975

U.S. DELEGATION REPORT

1. SUMMARY OF DELEGATION REPORT

Following is a summary of the Delegation Report on the Geneva Session of the Law of the Sea Conference, March 17-May 9, 1975. The detailed delegation report on the work of the main committees and relevant texts are appended.

(a) Evaluation of Session

(1) The principal visible result of the Geneva Session is the distribution of informal single texts covering all subjects before Conference. The Chairman of the dispute settlement group also submitted a text to the President of the Conference. The single texts were presented to the Conference President by the chairmen of the three main committees as a basis for negotiation of a comprehensive Treaty. These texts do not represent agreed articles or consensus texts but represent the judgment of committee chairmen based on their assessment of the negotiation thus far as to the appropriate starting point for further negotiations during the intersessional period and at the next session April 1976. As single texts were distributed on the last day, the Delegation has not had an opportunity to review or analyze them. A detailed evaluation will be made in Washington in the near future by the NSC Interagency Task Force. The test of the value of the single text will be the extent to which it facilitates further negotiations.

(2) The crucial question remains as to whether there is a widespread genuine will to reach accommodation. Without such will, the single text could provide nothing more than another vehicle to restate or reintroduce fundamental differences.

(3) In the judgment of the Delegation, the point has now been reached when a majority of states must make an assessment in the interim period before the next session as to whether a timely conclusion of an overall treaty is in their interests. There are pressures in many countries, including the U.S. for unilateral action to resolve immediate difficulties, especially coastal fisheries, which may further complicate negotiation of comprehensive Treaty. There appeared to be a general will to negotiate on major economic zone and pollution questions, with positions drawing much closer. On the other hand with respect to the deep sea-beds, and to a lesser extent with respect to scientific research and the interests of landlocked and geographically disadvantaged states, positions are still far apart. The remainder of this report will review course of negotiations and Delegation's assessment of current trends.

(4) Territorial Sea and Straits: A substantial consensus continues on a territorial sea of 12 miles. There appears to be a strong trend in favor of unimpeded passage of straits used for international navigation as part of a Committee II package.

(5) Economic Zone, Including Fisheries: Negotiation of balance of rights and duties in 200-mile economic zone is one of the most important elements of a satisfactory package. The principal efforts on this issue were made in the Evensen informal group, a group of some 40 nations from all nations, chaired by Minister Jens Evensen of Norway. The Evensen Group began work on the economic zone prior to Conference and completed work this session on a chapter on the economic zone including fisheries, and the continental shelf. With respect to fisheries the Evensen Group text includes articles on all fisheries issues including anadromous species (salmon) but not highly migratory (tuna) and it reflects a general consensus within the Conference on coastal state jurisdiction over coastal fisheries

within a 200-mile economic zone. Coastal states would have comprehensive jurisdiction to manage coastal stocks in the economic zone, coupled with a duty to insure their conservation and to permit access by foreign states to fish stocks in excess of the coastal state's capacity to harvest. The text on salmon represents an accommodation that contains new strong protections for the state of origin while permitting some continuation of traditional fishing.

(6) Deep seabeds: Efforts in early weeks which seemed likely to move toward accommodation with developing countries on key questions of basic conditions of exploitation did not survive pressures within the Group of 77 to return to original ideological positions. Doctrinal differences have previously prevented progress on this subject and gap was not bridged this session. However, limited flexibility was shown in efforts to reach an accommodation on basic questions involved in international machinery regarding powers and functions of the Assembly, Council Tribunal, and Technical Commissions, as well as voting procedures and provisional application of the regime and machinery.

(7) Dispute Settlement: The Text forwarded to the President by an informal group of about 60 states sets forth the dispute settlement procedures for inclusion in the Convention. While it proceeds on the principle that there will be some binding dispute settlement procedures, there is no agreement yet on what the scope of binding dispute settlement will be in the economic zone.

(8) Detailed negotiations in three main committees and in dispute settlement group are summarized in paragraphs 4, 5, 6, and 7.

(b) *Future Work Program*

The Plenary decided that the fourth session of the Conference should be held in New York for eight weeks commencing March 29, 1975. If the Law of the Sea Conference so determines, an additional session would be held in New York in 1976 with a final signing session in Caracas. The Evensen Group decided to continue its informal negotiations, but it will now become an open-ended group for all interested participants. The Group presently plans to meet during the last week of August and first week of September, with possible additional meetings during the General Assembly and in early 1976. Evensen announced that the subjects of marine pollution, scientific research, outer limit of continental shelf and revenue sharing would be discussed.

(c) *Committee I. Deep Seabeds*

(1) *General.*—Serious negotiations occurred in Committee I (CI) during Geneva Session, with a number of compromise proposals being explored, but the most striking feature of this session was the inability of the developing countries, in the Group of 77 to make concessions on their more fundamental ideological positions.

Although the developing countries were somewhat receptive to our basic concerns in the area of institutional structure and the need to limit the Authority's powers over exploitation, we were not able to bridge the ideological gap on the exploitation system. Despite a United States' effort to be forthcoming on some of their demands for participation, the developing countries continue to support the view that only a system in which the Authority directly exploits will protect their interest.

(2) *Basic Conditions and the Exploitation System.*—The United States entered the Committee I negotiations at Geneva with a willingness to be more flexible on issues of direct concern to the developing countries, while at the same time preserving its most important interest in access to deep seabed minerals. During the first half of the session, we agreed to consider including in the treaty basic conditions of exploitation as opposed to detailed regulatory provisions (on the condition that detailed regulations for the provisional period would be adopted by the Conference). We also agreed to consider a system of joint ventures, with the possibility of profit-sharing with the Authority, as the single method of exploitation, and proposed a reservation of areas system. Under this approach, an applicant for a joint venture would submit two mine sites, one of which the Authority would designate as a reserved area. In the reserved areas, the Authority could negotiate with applicants for the most favorable financial terms and commitments to transfer technology.

At mid-session, the Chairman of the Working Group introduced a personal draft of basic conditions that focused primarily on a contractual joint venture system that included reservation of areas for both States and for direct exploitation by the Authority. This elaboration of a parallel system (an approach in which the Authority directly exploits at the same time that States and their nationals exploit under a separate system) was intensively considered by the

Group of 77, who eventually rejected the concept of designating areas solely for State exploitation and also rejected the parallel system as elaborated in the draft. The reasons given by the Group of 77 for its rejection of this concept related to their ideological difficulty in establishing two separate regimes for the International Area.

(3) *Machinery*.—The Committee devoted only three formal sessions to consideration of machinery issues, although the Group of 77 developed a new, unified position on these questions. The most important aspect of this position was a willingness to include representation on the Council for developed and developing countries that have a special interest in the deep seabed and to submit the entire exploitation system to the control of the Council. Group of 77 did not reach an agreed position on production controls apparently as result of the differing interests of producers and consumers within the group. The United States delivered a statement in which we listed twelve critical elements of an acceptable international machinery.

(4) *Single Texts*.—The Committee concluded its activities this session with the introduction by its Chairman of a draft of single texts on the regime and machinery, prepared as a personal effort. The Chairman of the Working Group also prepared a revised version of basic conditions which was not considered by the working group, although it was annexed to the Chairman's unified texts.

(5) *Conclusion*.—In marked contrast to previous sessions, Committee I engaged in intensive efforts to bring opposing views closer together. Little progress was made in bridging the ideological gap between nations on the basic aspects of the exploitation system, although greater understanding was developed on the relative needs and interests of States that must be accommodated in the structure and powers of the International Authority.

(d) *Committee II. Territorial Sea, Straits, and the Economic Zone, including Living and Non-Living Resources*

The basic structure of a 12-mile maximum territorial sea, unimpeded passage of straits, and a 200-mile economic zone with sovereign rights over living and non-living resources and special treatment for anadromous species (salmon) has now been elaborated by specific texts. The Committee completed a review of the paper, developed in Caracas to reflect the "main trends" of the discussions, in informal meetings. Working groups have dealt with virtually all of the traditional details of the territorial sea question, including baselines and innocent passage, and the high seas regime, making some technical changes in the existing regime. The Evensen Group text on the economic zone reflects a broad trend of opinion; however, its circulation was followed by efforts in the Group of 77 by extreme territorialists to make the economic zone more coastally oriented and by efforts by landlocked and geographically disadvantaged states to secure greater rights of access to fisheries of neighboring coastal states. On fisheries, the Evensen text includes conservation and full utilization articles and an anadromous (salmon) article protecting the interests of the state of origin. While no agreement has yet emerged on continental shelf jurisdiction beyond 200 miles, it is increasingly recognized by many moderates that coastal state jurisdiction to a precisely defined limit of the margin beyond 200 miles coupled with revenue sharing beyond 200 miles is the only way to achieve widespread agreement.

The main negotiating problems facing Committee II in the future are likely to include the following:

(1) Status of the economic zone. Assuming all resource and economic activities (other than navigation, overflight, and submarine cables and pipelines) are subject to coastal state jurisdiction, and that pollution and scientific research questions are resolved, the question is whether the legal status of the economic zone remains high seas.

(2) Access of landlocked and geographically disadvantaged states to fisheries in the economic zones of their neighbors. The landlocked states are numerous, and an increasing number of states both developed and developing are regarding themselves as geographically disadvantaged.

(3) Right of access to the sea for landlocked states. While in principle everyone agrees, the strength and scope of the "right" is contentious, among concerned states.

(4) Highly migratory species (tuna). No complete meeting of the minds has yet been reached on this issue, although positions are closer. It seems that an organization which would establish mandatory conservation measures would be broadly acceptable, but there is still disagreement as to whether other measures adopted by an organization including allocation would be mandatory.

(5) Continental Shelf: What is still needed is an elaboration of a compromise on the continental shelf that includes coastal state resource jurisdiction over, and revenue sharing from, production on the continental shelf where it extends beyond 200 miles, although there are adamant positions by some delegations on both sides of the issue; those who oppose any jurisdiction beyond 200 miles, and some broad margin states who oppose the concept of revenue sharing.

(6) Boundaries between adjacent and opposite coastal states and related islands problems. It is increasingly recognized that a precise resolution in a multilateral convention of these essentially bilateral issues will be very difficult. There is both strong support for, and strong opposition to, compulsory dispute settlement where the boundary location cannot be agreed.

(7) Archipelagos. It is not yet clear whether agreement can be reached on an objective definition of archipelagos and on transit rights adequate to permit general acceptance of special provisions for archipelagos.

We believe the Conference must recognize that it will be impossible to go further to accommodate extreme territorialists and extreme straits states if the treaty is to be widely acceptable.

What most states want most out of the Committee II negotiation is reflected in texts that appear to have widespread support. What is now unresolved are special problems of considerable importance to some states on which a balance remains to be found. The cumulative total of states concerned with these special problems involves a substantial number; thus it will be necessary to resolve most of them, including the status of the economic zone, tuna, and the continental margin and the question of landlocked GDS concerns.

No state is likely to be fully satisfied by the single text prepared by the Bureau. If at the next session, states will accept the single text prepared by the Bureau as a basis for negotiation and press for changes of concern to them, there are reasonable prospects of success. If, on the other hand, a coalition forms of those dissatisfied that seeks to go back to the drawing boards and find a new basic text—the kind of maneuver that has already manifested itself in the Group of 77 economic zone recommended text submitted to the Chairman of Committee II for his consideration—then it is unlikely that a widely acceptable treaty can be produced.

(e) *Committee III. Marine Pollution, Scientific Research*

(1) *Marine Pollution*.—The pollution working group in the Third Committee completed texts on monitoring, environmental assessment, and landbased pollution and moved close to completed texts on ocean dumping and continental shelf pollution. While these texts include meaningful obligations to protect the environment, there continues to be some opposition to accepting such obligations.

On vessel source pollution, negotiations continued in the Evensen Group but no final agreement was reached. There was a trend, however, against any coastal state standard setting in the economic zone.

(2) *Marine Scientific Research*.—During this session the four main trends developed in Caracas evolved into three approaches which the Chairman ultimately considered in producing the unified text. These three different approaches are: 1. the proposal of some states within the Group of 77, which provides that all scientific research in areas under coastal state jurisdiction shall be conducted only with the explicit consent of the coastal state (L. 13, Rev. 2); 2. a proposal by many Western European countries, with amendments by a group of landlocked and geographically disadvantaged states, that marine scientific research can be conducted if a list of internationally agreed obligations are fulfilled, subject to dispute settlement procedures (L. 28, an amendment to L. 19); and 3. the Soviet proposal, later drawn upon by Mexico and others, which distinguishes between research concerning resources and non-resource related research, requiring consent for resource-related research and compliance with internationally agreed obligations for research not concerned with resources (L. 26 and L. 29).

The informal sessions of Committee III were devoted mostly to the question of the legal status of scientific installations and state liability for damage caused by scientific research. Meanwhile an informal negotiating group, under the chairmanship of Cornell Metternich of the Federal Republic of Germany, attempted to initiate negotiations on the major issues of marine scientific research in the economic zone and in the International Area. These efforts focused mainly on research in the economic zone, and were hampered by limited attendance. The private negotiations and new proposals formally introduced in Committee III led to some narrowing of the negotiating alternatives.

(f) *Settlement of Disputes*

Although there were some members of the working group on dispute settlement who opposed any binding dispute settlement procedures in areas of national jurisdiction (e.g., economic zone), the concept was supported by a majority of the more than 60 participating countries, at least for some important aspects of the Convention such as navigation. The question of the relationship between the exercise of coastal state resource jurisdiction and the acceptance of dispute settlement procedures is a particularly important and delicate problem. It remains unclear whether there will be a comprehensive dispute settlement mechanism or whether, as some delegations prefer, each issue will be dealt with separately. It also remains unclear whether the mechanism for resolving disputes would be the International Court of Justice, an arbitral body, or a new Law of the Sea Tribunal. A proposal forwarded by the group sets forth a procedure which permits states to elect to accept one or more of these alternatives. There is general support for special dispute settlement machinery for the deep seabeds. [End Summary.]

2. COMMITTEE I (DEEP SEABED)

The Geneva Session commenced in a conciliatory mood. The Group of 77 began the Geneva Session with the view that it had made an important concession at Caracas in agreeing to include basic conditions of exploitation in the treaty. Moreover, its leadership indicated that they might have some new flexibility on machinery issues.

The United States, also, came to Geneva prepared to be more flexible in issues of direct concern to the developing countries. We expressed our willingness to consider basic conditions in the treaty as opposed to detailed regulatory provisions (on the condition that detailed regulations for the provisional period would be adopted by the Conference) and to consider a system of joint ventures, with the possibility of profit-sharing, as the single method of exploitation.

(a) *Basic Conditions and the Exploitation System*

The Committee devoted the first half of the session to consideration in its working group of basic conditions of exploitation. The group agreed to discuss basic conditions applicable to joint ventures, recognizing that the Group of 77 reserved its position on whether the Authority would directly exploit. A consensus emerged that the legal problems involved in establishing equity joint ventures might be very difficult. Accordingly, the working group Chairman, Christopher Pinto (Sri Lanka) undertook to prepare a draft set of basic conditions that would be applicable to a contractual rather than an equity joint venture system.

In the working group, the United States explored a system for the reservation of areas. Under this approach, an applicant for a joint venture would submit two mine sites, one of which the Authority would designate as a reserved area. In the reserved areas, the Authority could negotiate with applicants for the most favorable financial terms and commitments to transfer technology.

At the same time that the Group of 77 was considering the United States banking system proposal and any implications it might have, the U.S.S.R. formally introduced a draft of basic conditions that was applicable to a parallel system in which the Authority directly exploited a portion of the seabed—by itself or under contract with private entities—while another portion of the area was reserved exclusively for State access.

At mid-session the Chairman of the working group introduced a personal draft of basic conditions that focused primarily on a contractual joint venture system that included reservation of areas for both States and for direct exploitation by the Authority. This elaboration of a parallel system (an approach in which the Authority directly exploits at the same time that States and their nationals exploit under a separate system) was intensively considered by the Group of 77, who eventually rejected the concept of designating areas solely for State exploitation and also rejected the parallel system as elaborated in the draft.

(b) *Machinery*.—The Committee devoted only three formal sessions to consideration of machinery issues. The Group of 77 announced a new, unified position on these questions. The most important aspect of this position was a willingness to include representation on the Council for developed and developing countries that have a special interest in the deep seabed and to submit the entire exploitation system to the control of the Council. The United States delivered a statement in which we listed twelve critical elements that would have to appear in an acceptable version of the machinery articles: (1) The Authority's control should only cover

activities directly related to exploitation and should not extend to other activities, such as basic or fundamental research; (2) the Authority's powers should only be those specifically provided for; (3) the Assembly's voting procedures should protect minority interests, require efforts to reach consensus, and provide for the suspension of Assembly action if an advisory opinion on a legal matter was requested of the Tribunal; (4) the Assembly's powers should not overlap those of the Council; (5) basic conditions that elaborated the Authority's fundamental resource policies; (6) a rule-making procedure similar to ICAO's; (7) the Council should have exclusive jurisdiction over the Authority's powers relating to exploitation; (8) a rules commission, supervisory commission, and as commission empowered to enter into contracts should have separate functions and report directly to the Council; (9) an effective dispute settlement system; (10) stringent conflict of interests provisions and penalties for data disclosure to apply to the Secretariat; (11) a financially self-sufficient Authority with the power to borrow funds in the initial years; (12) provisional application.

A key issue in the machinery discussion was the question of production controls. The Group of 77 did not arrive at a unified position on this issue, probably as a result of the differing interests of producers and consumer nations within the Group.

(c) *Single Texts*

The Committee concluded its activities this session with the introduction by its Chairman of a draft of single texts on the regime and machinery, prepared as a personal effort. In the time available, the delegation was unable to review this paper. The Chairman of the working group also prepared a revised version of basic conditions which was not considered by the working group, although it was annexed to the Chairman's unified texts on the regime and machinery.

(d) *Conclusion on Committee I*

In marked contrast to previous sessions, Committee I engaged in intensive efforts to bring opposing views closer together. Little progress was made in bridging the gap between nations on the basic aspects of the exploitation system, although greater understanding was developed on the relative needs and interests of States that must be accommodated in the structure and powers of the international Authority.

3. COMMITTEE II (TERRITORIAL SEA, STRAITS, ECONOMIC ZONE, INCLUDING LIVING AND NON-LIVING RESOURCES)

For easy reference this section of the report is organized in accordance with the "Main Trends" paper (A/Conf. 62/C.2/WPI of 15 October 1974.)

(a) *Territorial Sea*

(1) *Nature and Characteristics*.—No formal discussion took place in Committee II on this topic. There was general acceptance of the provisions of the 1958 Geneva Convention on the Territorial Sea and Contiguous Zone regarding this issue.

(2) *Historic Waters*.—Although a draft text, which attempted to define historic bays and other historic waters, was introduced by Colombia, the Consultative Group to which this was referred adjourned without taking any action on the text. There was strong opposition to a general doctrine of historic waters as proposed by the Philippines.

(3) *Limits*.—The Consultative Group considering baselines for delimiting the territorial sea agreed on the wording of Provisions 4 through 20 of the Committee II Main Trends paper, and although there was opposition by a few delegations to certain phrasing, these Provisions seemed to receive the approval of a majority of the members of the Consultative Group. The two principal changes between the revised text and the 1958 Geneva Convention articles are, first, the new provision that where, because of a delta or other natural conditions the coastline is highly unstable, appropriate points may be selected along the farthest extent of the low-water line and connected by straight baselines; and second, that straight baselines may be drawn to and from low-tide elevations with no lighthouses on them where the specific delimitation has received general international recognition. The Conference is proceeding on the assumption of a 12-mile territorial sea for which there is very broad support. The Ecuadorian proposal for a 200-mile territorial sea was supported by only a handful of countries most of which have similar territorial claims of their own, and even some of those supporting statements were ambiguous.

(4) *Innocent Passage on the Territorial Sea*.—The informal consultative group on Innocent Passage completed its second reading of the Main Trends Paper, A/Conf.-62/C.2/WP.1. Straits are of course dealt with in a different section of the paper. There was broad support for retaining the relevant provisions of the 23, in all substantial respects except as follows:

(i) Rules applicable to all ships:

There was support for clarifying passage to mean navigation through the territorial sea for the purpose of a. traversing that sea without entering internal waters or calling at a roadstead or port facility outside internal waters; or b. proceeding to or from internal waters or a call at such a roadstead or port facility. The text of Article 16(2) of the 1958 Territorial Sea Convention was changed so as to provide a coastal State right to take necessary steps to prevent any breach of the conditions to which admission to roadsteads and facilities beyond internal waters as well as internal waters, is subject.

With respect to the definition of innocent passage, there was support for an objective list of activities by a passing ship prejudicial to the peace, good order or security of the coastal State and therefore non-innocent. Items receiving most support were the use or threat of force in contravention of the UN Charter, and: (1) any exercise or practice with weapons of any kind; (2) the launching or taking on board of any aircraft; (3) the launching, landing or taking on board of any military device; (4) the taking on board or putting overboard of any commodity, currency or person in contravention of the customs, fiscal, immigration or sanitary regulations of the coastal State; (5) any act aimed at collecting information to the prejudice of the defense or security of the coastal State; (6) any act aimed at interfering with any system of communication of the coastal State, and; (7) any act aimed at interfering with any other facilities or installations of the coastal State.

There was support for a list enumerating the competence of the coastal State to make laws and regulations, in conformity with the provisions of the Convention and other rules of international law, relating to innocent passage. Items receiving most support were: (1) the safety of navigation and the regulation of marine traffic, including the designation of sealanes and the establishment of traffic separation schemes; (2) the protection of navigational aids and facilities and other facilities and installations including those for exploration and exploitation of the marine resources of the territorial sea and the seabed and subsoil thereof; (3) the protection of cables and pipelines; (4) the conservation of the living resources of the sea; (5) the preservation of the environment of the coastal State, including the territorial sea, and the prevention of pollution thereto; (6) research for the marine environment and hydrographic surveys; (7) the prevention of infringement of the customs, fiscal, immigration, quarantine or sanitary or cryptosanitary regulations of the coastal State; (8) the prevention of infringement of the fisheries regulations of the coastal State, including, *inter alia*, those relating to the stowage of gear.

Both of the lists are attempts to clarify possible ambiguities in 1958 Territorial Sea Convention which deals both with the issue of definition of innocence and coastal State regulatory power in general terms.

(ii) Rules applicable to ships with special characteristics:

Efforts to provide for advance notification for innocent passage of tankers and nuclear-powered ships or ships carrying nuclear weapons, and to provide for advance authorization in the latter case, received little support. Oil exporting and importing States stated strong opposition, noting that tankers are frequently rerouted.

(iii) Rules applicable to merchant ships:

There was no opposition to clarifying the text of Article 19 of the 1958 Territorial Sea Convention to add quote psychotropic drugs unquote to the provisions of Article 19-1(d) regarding suppression of traffic in narcotic drugs.

(iv) Rules applicable to government ships:

There was support for State responsibility in the event of damage to the coastal State as a result of noncompliance with coastal State laws or regulations relating to passage through the territorial sea by a warship or other government ship in noncommercial service, in view of the sovereign immunity of such ships.

(5) *Freedom of Navigation and Overflight Resulting from the Plurality of Regimes in the Territorial Sea*.—This subject received no discussion in the informal consultative group on innocent passage, other than an indication by Peru that the question should be kept alive pending resolution of economic zone issues.

(b) *Contiguous Zone*

There was one informal consultative session held on the subject of the contiguous zone. It was generally accepted that a contiguous zone of up to 12 miles from the coast could be declared for States not wishing to claim a 12-mile territorial sea. A few countries pressed for additional contiguous zone jurisdiction beyond a 12-mile territorial sea, primarily to combat smuggling, of limited distance, e.g., an additional 12 miles.

The confusion between the contiguous zone and the exercise of customs, fiscal, immigration, and sanitary jurisdiction over resource installations and artificial offshore ports has been eliminated by article 1 of the Evensen economic zone text, which clarifies that such jurisdiction is part of coastal State jurisdiction over artificial islands and installations.

(c) *Straits*

Committee II held two informal consultations on straits. A clear majority of States participating in the debates favored a regime of unimpeded transit of straits, with a significant number of States endorsing the principle. The hard line straits States opposing unimpeded passage were more clearly isolated than in past sessions of the Conference. While there was little tendency to focus on specific treaty texts, the dominant trend of the Conference now clearly favors an unimpeded transit regime.

In addition to the two public meetings, there were active negotiations on the straits issue this session in private, unofficial consultative groups and in bilateral discussions. The United Kingdom and Fiji jointly chaired an informal consultative group which met throughout the session, and included significant representation from developing countries in all regions. This group took as its basic negotiating texts the straits articles from the UK and Fiji proposals in Caracas (A/Conf./62/II/L.3 and L.18) and after numerous meetings produced a draft straits chapter, adopted by consensus within the Group, which was forwarded to Ambassador Galindo Pohl, and circulated to Committee II.

The United States delegation has a number of problems with the UK-Fiji text primarily because the scope of permissible coastal State regulatory authority is too broad.

(d) *Continental Shelf*

It is generally agreed that coastal State exclusive sovereign rights over seabed resources would be co-terminous with the economic zone and extend at least to 200 nautical miles from the coast. The continental margin extended beyond 200 miles off the coasts of some States including the United States. With respect to areas of the continental margin beyond 200 miles, there are three positions:

1. the legal Continental Shelf ends at 200 nautical miles;
2. where the continental margin extends beyond 200 miles, sovereign rights over seabed resources should extend to the outer limit of the margin;
3. where the continental margin extends beyond 200 miles, sovereign rights over seabed resources should extend to the outer limit of the margin coupled with an obligation to share some revenues from mineral exploitation beyond 200 miles.

While some advocates of the first two positions remain adamant, there is growing support for the third solution as the only way to achieve widespread agreement. The US, which has supported the idea of jurisdiction coupled with revenue sharing beyond 12 miles or the 200-meter isobath, whichever is further seaward, indicated that it could go along with applying revenue sharing only in the area of the margin beyond 200 miles, and suggested an illustrative schedule as follows: after the first five years of production at the site, the coastal State would contribute one percent of the value of production of the site (well head value) which would increase thereafter by one percent each year, until it reached five percent in the tenth year, where it would remain thereafter. We indicated that if we assumed a given field would produce 700 million barrels of oil through a 20 year depletion period, and a value of \$11 per barrel, the total amount would be \$140 million per field. The oil and other minerals themselves, and revenues collected by the coastal State would of course remain with the coastal State.

The US explained that such a system would permit some initial exploration and drilling costs to be recovered before the commencement of the coastal State obligation to make payments under the treaty. During the more economically productive life of the well, the rate of payments would increase, providing the international community with certain and substantial revenues. A graduated approach is designed to avoid onerous burdens on pioneering developments.

Other States favor a system of profit sharing, while the US felt would produce uncertainty in view of unpredictable costs in operating in great water depths and great difficulty in reaching agreement among states of differing economic systems on what costs can be deducted from gross profits to compute net revenues.

Some landlocked and geographically disadvantaged States have presented a formula for distributing the revenues.

Another difficult issue is the precise definition of the continental margin where it extends beyond 200 miles. The US favors a formula which would permit a coastal State to set the outer limit of the margin within 60 nautical miles of the foot of the slope. This is a relatively simple and inexpensive determination. Other broad margin States favor a direct geophysical definition which includes rocks derived from the land mass underlying the shelf, slope and rise, but not the deep ocean floor. The problem is that unless sediments overlying the deep ocean floor are excluded from the definition of the margin, its extent will be extremely and unnecessarily broad, a result likely to meet with considerable opposition. There is some lack of understanding that the object of the negotiation is to fix a juridical boundary between the coastal and international resource regimes, rather than to describe a scientific definition of the margin, this is compounded by the link between land and geology implied by the "natural prolongation" language used by the International Court of Justice.

Advocates of coastal State jurisdiction beyond 200 miles generally support independent and binding international review of the coastal State's delimitation of the outer edge of the margin in order to ensure precision and avoid unreasonable claims.

Many delegations expressed environmental concerns over pipelines. It appears that the freedom to lay and maintain pipelines will be qualified by coastal State rights with respect to routing and pollution control, and that exclusive coastal State jurisdiction over pipelines from its installations or entering its territory will be expressly recognized.

In sum the textual material for a settlement based on margin jurisdiction and revenue sharing beyond 200 miles is prepared. Precise formulas exist for defining the margin, with differences on texts being narrowed, for a Continental Shelf Boundary Review Commission, and for revenue sharing contribution and distribution. Most broad margin advocates and many others are prepared to negotiate on revenue sharing beyond 200 miles, and thus the negotiating prospects seem good unless the numerous advocates of a straight 200-mile limit feel that they cannot move until broad margin opponents of revenue-sharing drop their opposition.

(e) *Economic Zone*

(1) *General*.—After a long period of work, Chairman of the Juridical Experts Group, Minister Jens Evensen of Norway, submitted a text on the Economic Zone to the Chairman of Committee II, and circulated copies to all delegations. It is by far the major negotiating development on this issue. The text is annexed. It deals with all the economic zone issues except for 1. a blank article on highly migratory species that remains to be negotiated, and 2. pollution and scientific research.

Article 1 summarizes the rights of the coastal State in the economic zone notably sovereign rights over living and non-living resources, rights over other economic activities such as production of energy from winds, and rights to be specified with respect to pollution and scientific research. The pollution and, research issues are to be considered without prejudice to the work of Committee III.

Article 2 establishes the maximum limit of the economic zone at 200 nautical miles.

Article 3 deals with the rights of all States in the economic zone. There was general agreement on freedom of navigation and overflight, and on freedom to lay and maintain submarine cables and pipelines (which will probably be subject to subsequent qualifications regarding pipeline routing and pollution). The highly contentious issue was whether "residual rights" would be accorded coastal States or to all States or would be left open. The Evensen text deals with the issue by according all States the right conduct internationally lawful uses of the sea related to navigation and communication, and by specifying that conflict over rights not given to the coastal State or to all States should be resolved on the basis of equity, taking into account the relative importance to the States concerned and the international community. A footnote to Article 3 indicates that scientific research remains to be dealt with.

Article 4 deals with artificial islands and installations. This article, along with Article 3, was the major object of attack by the territorialists, who urged exclusive coastal State control over all artificial islands and installations. The US and others argued for jurisdiction over resource and other economic installations only. The text deals with the issue by giving the coastal State exclusive jurisdiction over 1. all artificial islands; 2. installations used for purposes subject to its jurisdiction under Article 1 (e.g., deepwater ports); and 3. installations which may interfere with the exercise of the rights of the coastal State in the economic zone.

The article specifies that safety zones, if any, must be reasonably related to the nature and function of the installation, thus introducing some flexibility, but includes a maximum breadth (to be specified) beyond which international action is needed, in order to protect navigation. It also introduces a new element of protection by requiring vessels to obey international standards in the vicinity of safety zones, thus permitting some measure of international protection without the need to establish unreasonably broad safety zones.

Although all regional and interest groups were represented in the Evensen Group, the Group of 77 undertook to produce its own text. It appears that the dissatisfaction of extreme territorialists was a major factor in this, and they resorted to the usually effective tactic of appealing for Group of 77 unity. The irony is that certain territorialists were very active in the Evensen Group but relied on the failure of some African members to attend consistently to argue that the Group was not fairly balanced. Another major factor was the dissatisfaction of the landlocked and geographically disadvantaged States with the Evensen text on access to fisheries. While both the territorialists and the landlocked and geographically disadvantaged seemed initially to favor the preparation of a Group of 77 text, the territorialists and those seeking to delay a treaty and stimulate unilateral action seem to have gotten the best of the tactic since the text forwarded by the Chairman of the Group of 77 is much more coastal in its orientation, contains new contentious substantive and political elements certain to arouse strong opposition, and was denounced by the group of landlocked and geographically disadvantaged States, most of whom are developing countries. Nevertheless, the structure of the paper is strikingly similar to the Evensen text, and it was forwarded to the Chairman of Committee II for his consideration in preparing the single negotiating text, presumably indicating an intent to work on the basis of the Chairman's text.

(2) *Fisheries*.—As with other aspects of the Main Trends Paper (WP-1), public discussions of fisheries issues were conducted by Committee II in informal session. In general, this discussion was limited to restatements of national positions with no real negotiation taking place. There were, however, significant developments as a result of private negotiations, and this session saw for the first time a willingness by many States to negotiate.

Although the Evensen text does not bind any delegations, it does represent a basis for ultimate compromise on the fisheries issues. The text contains provisions on all basic fisheries issues in the Economic Zone of importance, with the exception of highly migratory species, which proved to be too contentious an issue to resolve during the session.

The Evensen text has been attacked from several quarters. Members of the landlocked and geographically disadvantaged group, although represented in the Evensen negotiations, have formally stated to the Chairman of Committee II that the paper does not represent their views; their concern relates principally to access to fisheries. The Group of 77 formed its own negotiating group of the whole to produce another text on fisheries issues, although it is not clear to what extent there is agreement in the group.

On specific issues, the trend of the negotiation on fisheries is definitely in the direction of a more coastally-oriented zone, although there is wide acceptance of a legal obligation to conserve the resources, and in principle to insure their full utilization.

The Evensen text includes both principles.

With respect to conservation (Evensen Article 5), the text expands upon the United States view that environmental and other factors should be included in determining allowable catch, and in particular includes a clause on associated or dependent species.

Article 6 on full utilization in effect combines the principle of full utilization with the principle of coastal State regulation. The coastal State is required to permit access to that part of the allowable catch which exceeds its harvesting capacity, but its regulatory flexibility is expressed in great detail. There are no

strict priorities of access for foreign States, but traditional fishing is one of the factors the coastal State must take into account.

The Evensen text on anadromous species (salmon) is the result of intensive negotiation among States most concerned; it represents a substantive accommodation of interests not only on the immediate issues but in response to general Conference pressure that the overall economic zone framework be respected. The text establishes the special interest of the State of origin in anadromous species, gives the State of origin exclusive conservation authority in its own economic zone and beyond the economic zone, and requires other States through whose waters anadromous species migrate to cooperate with the State of origin. At the same time, the State of origin must by agreement cooperate in minimizing economic dislocation in States that have fished these resources beyond the economic zone; this clause is intended to apply only to traditional fishing. The appearance of this text helped avoid a potentially bitter debate which could have been complicated by ideological and political factors not directly related to the specific problems of conservation and management of anadromous species.

Based on a U.S. initiative, attempts were made in the Evensen Group to negotiate an article on highly migratory species. One attempt centered on a compromise solution which would recognize the competence of an international or regional organization to set standards and make recommendations, but the organization itself would decide as to which were binding and which would only be recommendations; Special voting protections for coastal States were included in the proposal. This attempt proved unsuccessful, and the Evensen text remains silent on the issue.

There were discussions in the Evensen group as to how marine mammals should be handled in the treaty. Some States took a strong stand to preserve their whaling interests, and other nations have been active in attempts to ensure complete coastal State control over marine mammals within the zone. The U.S. has taken a position which would allow both coastal States and international organizations as appropriate to exert strong regulatory measures over marine mammals, including a prohibition on harvesting.

(f) *Preferential Rights*

There was no discussion of this item as the economic zone in effect supersedes it.

(g) *High Seas*

Committee II held seven informal consultation meetings on the high seas and transmission (broadcasting) from the high seas, with a view toward developing agreed single texts on Provisions 136-177 of the Caracas Main Trends Paper. At its first meeting, the group decided to defer discussion of the definition of the high seas, the question of the freedoms of the high seas and the regulation and the management and conservation of living resources, pending resolution of the issue of the economic zone. Single texts reflecting the existing law in other respects, as set forth in the High Seas Convention, were adopted, except as noted below.

An amended version of an EEC proposal setting specific flag state obligations and clarifying the requirement that there be a "genuine link" between the flag States and the ship, was adopted.

A UK sponsored article dealing with suppression of unauthorized radio broadcasting from the high seas was provisionally accepted. After defining unauthorized broadcasting as "... transmission . . . intended for reception by the general public contrary to international regulations . . .," the article grants prosecution jurisdiction to "... any State where the transmissions can be received. . . ."

The group also considered an article which would have permitted all-flag enforcement against vessels, under 500 tons, engaged in trafficking in narcotics. However, a controversy developed over removal of the 500-ton limitation, and the Chairman announced that his private consultations convinced him the difficulty could not be resolved.

(h) *Landlocked Countries and Geographically Disadvantaged States*

This session of the Conference has seen a significant and co-ordinate effort by the Group of landlocked and geographically disadvantaged (LL/GDS) States to establish themselves as a power to be reckoned with by the Conference. To a large extent this has been successful, and as the session closed the issue of LL/GDS access rights to fisheries in Economic Zones of other States was recognized as a major issue in the Conference. This has been due to several factors. First, the leadership of the group has been very effective in co-ordinating their efforts and presenting a position that is consistent in all forums. Additionally, the group has been able to take advantage of fragmentation of views among regional groups, and

the sheer number of states considering themselves members make the group a potent force.

There were several informal meetings of the consultative group dealing with the question of the rights and interests of landlocked and geographically disadvantaged States. There are two principal issues which arise from consideration of this subject. The first concerns the strong efforts by landlocked and geographically disadvantaged States to have access to the living resources of the economic zones of neighboring States. In public debate, many coastal States took vigorous exception to this principle. The second issue relates to the subject of landlocked state free transit to the sea. While the informal meetings of Committee II dealt with both issues at length, small informal consultations were limited to this second issue. Landlocked States argued at length that "right" of transit was a logical consequence of landlocked State enjoyment of freedom of the seas and the common heritage. Certain transit states strongly resisted recognition of this idea as a "right."

Most of the controversy on the fisheries issue with regard to the LL/GDS problem centers on what legal obligation will be contained in the treaty to allow them to exploit the living resources of economic zones of their neighbors. The basic LL/GDS position is for granting of such a right in the treaty, with the modalities of exercising it to be negotiated. Many coastal States, on the other hand, are opposing this basic position for political or resource reasons, and have instead proposed that the legal obligation should be to enter into good faith negotiations with a view to bilaterally granting exploitation rights. In addition, there are mutations of these positions, such as granting legal rights to landlocked but not to GDS.

In general, there is a trend to firmer fishing rights for LL states than for GDS. Nevertheless, the OAU position that LL states should have equal fishing rights in the economic zones of adjacent coastal States has been strongly opposed by some coastal States in other regions, particularly Peru.

The situation is made more complex by the differing political problems involved within regional groups, the difficulty of precisely defining "geographically disadvantaged," and the problems of making a developed/developing country distinction with regard to either the LL/GDS themselves, or those in whose zones they would fish.

While the LL/GDS group has also raised the issue of a right of access to non-living resources of the economic zone and continental shelf in its draft articles, there is very broad opposition to this idea among coastal States.

(i) *Archipelagos*

Nothing new emerged during meetings of the working groups of the whole. Private discussions have taken place with a view to dealing with the critical issues of an objective definition of archipelagos and full transit rights adequate to permit general acceptance of the concept of the archipelagic States.

(j) *Enclosed and Semi-Enclosed Areas*

Consideration of this issue by the informal consultative Group was confined to definitions. There seemed to be a majority opinion to limit discussion to "semi-enclosed seas" but the question of definition remained contentious, in part because it was unclear what purpose would be served by a chapter on the subject. The U.S. and others noted that the item could require renegotiation of most general navigational and resource issues, which obviously should be avoided. There could be no question of affecting rights of all States as provided for in the general chapters of the Convention.

(k) *Artificial Islands and Installations*

(See discussion of economic zone.)

(l) *Regime of Islands*

Two aspects of islands were considered. The first was whether their entitlement to a territorial sea, economic zone and continental shelf should be based on a distinction among types of islands, based on size, population, economic or political status. No agreement was reached on this issue. The second problem was that of the weight to be assigned to islands, islets, and rocks in the delimitation of boundaries between opposite and adjacent States. This question was referred to the consideration of delimitation issues.

Essentially, the basic problem is delimitation. However, States concerned with delimitation appear to be taking a double approach to the problem and are also questioning the entitlement of islands in principle to an economic zone. Many others argue that people of islands are even more dependent on marine resources than those on continents.

(m) Delimitation

There was considerable disagreement among delegations as to whether the articles on delimitation in the 1958 Geneva Convention remain adequate, or whether new provisions on delimitation are necessary. There are also some wide differences among those favoring new provisions.

4. COMMITTEE III. (MARINE ENVIRONMENT AND SCIENTIFIC RESEARCH)

(a) Marine Environment

The Informal Working Group on marine pollution, chaired by Jose Vallarta (Mexico) devoted its efforts to non-vessel sources of marine pollution, on the understanding that contentious jurisdictional issues would be negotiated in the Evensen Group. Taking up the plan of work where the Group left off in Caracas, general agreement was reached on texts of articles on monitoring, environmental assessments and land-based sources of pollution. The monitoring article, taken in conjunction with the US-proposed article on environmental assessments, should ensure that States assess in advance the environmental impacts of activities which may cause substantial marine pollution, and follow up with reasonable monitoring efforts. Both articles require appropriate communication of results to competent international organizations.

The article on land-based sources of pollution requires states to establish national regulations and includes special mention of toxic and persistent substances. The first of two alternate texts on the third paragraph would require states to endeavor to establish global and regional rules to control land-based pollution, but the second would modify such efforts by requiring consideration of economic factors.

The Working Group discussed but did not reach complete agreement on pollution from the continental shelf and from dumping. On shelf pollution standards, an impasse was reached on the jurisdictional issue with a few coastal States (notably Brazil) taking the position that the article should reflect their view that all seabed activities within the economic zone would be under the jurisdiction of the coastal State. In spite of persistent corridor efforts by the Chairman to resolve this issue by a neutral reference to the result of C.II negotiations on the jurisdiction question, the article was deferred. On dumping, agreement was close, but was prevented by India's insistence on submitting an alternative to the Chairman's suggested text. India opposed a binding obligation to accept international standards for dumping in its economic zone, reserving in effect the right to apply less stringent standards to such dumping.

(b) Marine Scientific Research

During this session the four main trends developed in Caracas evolved into three approaches which the Chairman ultimately considered in producing the unified text. These three different approaches are: 1. the proposal of the Group of 77, which provides that all scientific research in areas under coastal State jurisdiction shall be conducted only with the explicit consent of the coastal State (L. 13, Rev. 2); 2. a proposal by many Western European countries, with amendments by a group of land-locked and geographically disadvantaged States, that marine scientific research can be conducted if a list of internationally agreed obligations are fulfilled, subject to dispute settlement procedures (L. 28, an amendment to L. 19); and 3. the Soviet proposal, later incorporated in a formal proposal by Mexico and others, which distinguishes between research concerning resources and non-resource related research, requiring consent for resource-related research and compliance with internationally agreed obligations for research not concerned with resources (L. 26 and L. 29).

The informal sessions of Committee III were devoted mostly to the question of the legal status of scientific installations and State liability for damage caused by scientific research. Meanwhile an informal negotiating group, under the chairmanship of Cornell Metternich of the Federal Republic of Germany, attempted to initiate negotiations on the major issues of marine scientific research in the economic zone and in the International Area. These efforts focused mainly on research in the economic zone, and were hampered by limited attendance of States from the Group of 77 in general, and Africa in particular. The private negotiations and new proposals formally introduced in Committee III led to some narrowing of the negotiating alternatives.

The Soviet Union, with co-sponsorship by other Socialist countries, introduced document L. 26 early in the session. The prior Soviet position, reflected in L. 31 (introduced in 1973 in the Seabeds Committee) called for consent for shelf research, and freedom for research in the water column and in the International Area. In

L. 26 the Soviet Union proposed that in the economic zone, marine scientific research "related to the exploration and exploitation of living and non-living resources" would be conducted only with the consent of the coastal State, and research not so related would be conducted subject to the fulfillment of a series of obligations; a similar regime would apply to research on the continental shelf beyond the economic zone. Research in the International Area could be conducted freely. Since this proposal had some appeal both to those seeking a consent regime and those advocating marine scientific research under an obligation regime, it was the center of discussion throughout the session. The major criticism levied at the Soviet approach by developing and some developed countries was the practical difficulty of making such a distinction. Some, led by Canada, concluded that all marine scientific research should be subject to a consent regime, while others stated that they could accept a distinction if the Coastal State had the exclusive right to determine whether the research related to exploration or exploitation of resources.

The Netherlands served as chairman of the group of land-locked and geographically disadvantaged States in Committee III which group produced L. 28 as an amendment to L. 19. This group consists of 48 countries, apparently not all of whom support L. 28. L. 19 provides that all research in the economic zone may be conducted upon compliance with a series of internationally established obligations. L. 28 provides for notification of neighboring land-locked and geographically disadvantaged States and their participation, whenever feasible, in research projects conducted in the economic zone of neighboring coastal States. A dispute settlement procedure calls for a panel of experts drawn from a list established by the Director-General of UNESCO to assist the researching State and the coastal State in settling disputes concerning whether the obligations have been fulfilled prior to the proposed project, or on prior projects conducted in that State's economic zone. The decision of the experts is not binding, and if their assistance does not result in agreement, either party may resort to binding dispute settlement procedures.

From a US perspective the most negative aspect of the session was the reintroduction by the Group of 77 of their proposal, L. 13/Rev. 2. There was no change of position from their earlier insistence on explicit consent for research in the area under coastal State jurisdiction and/or sovereignty and direct control by the International Authority over all research in the International Area. References to marine research conducted by satellites was moved from the basic text and placed in a bracketed note which stated that the Group of 77 agreed to develop provisions on this issue in the future. The Group of 77 text also modified its wording from "marine scientific research" to "scientific research in the marine environment," apparently to make the term more encompassing. The new text also contains provisions with respect to rights of land-locked States.

In the closing days of the session L.29 was introduced by Columbia, El Salvador, Mexico and Nigeria. Elements of this proposal had been informally circulated by Mexico for several weeks prior to its formal introduction. Unlike the Soviet proposal which distinguishes between research related to the exploration and exploitation of resources and research not so related, L.29 distinguishes between fundamental research and research related to the resources of the economic zone. If the research is fundamental, a series of obligations must be fulfilled while resource-related research may only be conducted with the consent of the coastal State. Where disagreements exist as to whether the research is fundamental, experts shall assist the parties to reach agreement. If no agreement is reached, the coastal State shall have the right to withhold its consent. In the International Area, information concerning the research project shall be submitted to the International Authority or other appropriate international body prior to the conduct of the research.

5. SETTLEMENT OF DISPUTES

Effective provisions for the compulsory settlement of disputes arising from the interpretation or application of the LOS Convention are an essential part of a negotiated package. Without such provisions, the substantive provisions of the Convention will be subject to unilateral interpretation and the delicate balance of rights and duties will be upset.

At Caracas, the recognition of the importance of the issue led to the establishment of an open-ended informal group on the settlement of disputes. A list of eleven basic issues was prepared and, after considerable discussion, alternative texts were developed for each issue. The resulting document formed the basis of

the Geneva discussions under the co-chairmanship of Ambassador Harry (Australia), Ambassador Galindo-Pohl (El Salvador) and Mr. Adede (Kenya) in which more than sixty countries participated.

At Geneva, an attempt was made to arrive at a single negotiating text, selecting the more generally accepted alternatives or combining them whenever possible, in an effort to develop an overall system for the settlement of disputes arising out of the LOS Convention. Difficulties, however, were encountered. Various delegations argued for a single procedural system—the International Court of Justice, arbitration, or a special Law of the Sea Tribunal; no group, though, was able to rally strong enough support for any particular solution. A compromise proposal, which provided that a Contracting Party, when ratifying the Convention, may choose one or more of these three methods eventually proved acceptable to the vast majority of delegations. Under this proposal, a case brought against a Contracting Party has to be brought before the forum chosen by that party. It also allows special functional forums, such as a special dispute settlement procedure for the deep seabeds.

Objections were however raised by delegations which thought that the method they preferred should be imposed on everybody. Objections were also raised by the “functionalists”—those delegations favoring different machinery for different types of disputes, e.g., deep seabed, fisheries, science, or pollution. Objections were raised by a few delegations which, while accepting binding decision-making in principle, argued that there should be an exception for areas under national jurisdiction (internal waters, territorial waters, economic zone and continental shelf). However, most of these apparently do not intend a full exception (e.g., navigation rights and pollution would not be excluded).

In addition, difficulties arose with respect to the US proposal to establish a Law of the Sea Tribunal, since some delegations were completely opposed to the idea of a permanent dispute settlement machinery, as distinguished from the appointment of *ad hoc* arbitration tribunals or special commissions, or the use of the ICJ. There was also some confusion about the relationship between this general tribunal and a specialized Seabed Tribunal to be established for the seabed beyond the limits of national jurisdiction.

The group forwarded to the President of the Conference four generally agreed introductory articles, together with three annexes—Annex I presents Articles 5 to 17 for a comprehensive procedure, together with three sub-annexes, dealing respectively with conciliation, arbitration and the special LOS Tribunal; Annex II illustrates the functional approach; and Annex III sets forth a proposed preliminary chapter on information and consultation. The four generally agreed articles state that the Contracting Parties shall settle any Convention-related disputes by the peaceful means provided in Article 33 of the UN Charter; that they may choose the means to settle their dispute; that they may resort to arbitration or judicial settlement if they are party to another instrument which so provides; and that they shall expeditiously exchange views whenever a dispute arises or a procedure is terminated without a settlement of the dispute.

The principal merit of Annex I (Articles 5 to 17) is its flexibility. It does not try to confine all disputes into a single channel, but allows the parties to the dispute to make a variety of choices. Specifically, it contains the following provisions:

1. If the parties have agreed to settle a dispute by means of their own choice and a time limit has been set for the proceedings or if the Convention provides for special procedures (e.g. on deep seabeds) additional dispute settlement procedures may be initiated only a. upon the expiration of the time limit or completion of the special procedure, b. if no settlement has been reached, and c. further procedures are not precluded by the treaty (Articles 5 and 6).

2. There are flexible provisions for conciliation prior to judicial settlement in cases where the Convention does not provide for special procedures (Article 7).

3. A choice among three procedures entailing a binding decision—arbitration a special Law of the Sea Tribunal, and the International Court of Justice—is permitted. Each State can, at the time of its ratification of the Convention, select one or more of these tribunals, depending upon its preference. If it does not care, it can agree to all of these procedures, leaving the choice in such a case to the plaintiff. Otherwise, the selection made by the defendant party is controlling (Articles 8 and 9).

4. The tribunal selected will exercise different kinds of jurisdiction: primary jurisdiction over disputes for which there is no special procedure; secondary jurisdiction in cases subject to preliminary procedures, after these procedures have proved unsuccessful; and appellate jurisdiction over disputes in which a binding decision has been rendered as a result of a special procedure and in which an

appellate procedure is not excluded. Where a binding decision has been rendered in a special procedure, a party may appeal to the competent general tribunal only in a few specified cases (lack of jurisdiction, infringement of basic procedural rules, abuse or misuse of powers, or gross violation of the Convention) (article 10).

5. Scientific or technical matters arising out of certain chapters may be referred to a committee of experts or, alternatively, four technical assessors may be asked to assist the tribunal in its deliberations. If the dispute is not settled on the basis of the resulting opinion, either party may request that, on appeal, the findings be taken into account (Article 11).

6. Provisional measures may be granted by the tribunal to minimize damage pending final adjudication (Article 12).

7. The tribunals shall be open to the Contracting Parties and, whenever the Convention so provides, to natural and juridical persons (Articles 13 and 15).

8. When a dispute relates to resource jurisdiction of a coastal State in its economic zone or to its enforcement jurisdiction, resort to an international tribunal can be made only when local remedies have been exhausted (Article 14).

9. Each tribunal shall apply the law of the Convention.

10. In ratifying the Convention, a State may declare that, with respect to areas to national jurisdiction, it limits its acceptance of CDS to certain instances relating to freedom of navigation, due regard to rights of other States, application of international standards and criteria, or abuse or misuse of power by the coastal State. In addition, a State may exempt disputes: a. arising out of the exercise of discretionary rights by a coastal State pursuant to its regulatory and enforcement jurisdiction; b. regarding sea boundary delimitations between adjacent or opposite states if it specifies another procedure it accepts; c. regarding military activities; and d. affecting situations in which the UN Security Council is exercising its functions (Article 17).

While harmonization of the general and functional approaches is still needed, some important forward steps were taken in Geneva and a considerable measure of agreement was reached on several crucial issues. Much more progress needs to be made, and the Geneva work should serve as a basis for that progress.



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THIRD CONFERENCE
ON THE LAW OF THE SEA



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INFORMAL SINGLE NEGOTIATING TEXT

PART I

TEXT PRESENTED BY THE CHAIRMAN OF THE FIRST COMMITTEE

Note by the President of the Conference

At its 55th plenary meeting on Friday 18 April 1975 the Conference decided to request the Chairman of its three Main Committees each to prepare a single negotiating text covering the subjects entrusted to his Committee. In his concluding statement, before the Conference made this request, the President stressed that the single text should take account of all the formal and informal discussions held so far, would be informal in character and would not prejudice the position of any delegation nor would it represent any negotiated text or accepted compromise. It should, therefore, be quite clear that the single negotiating text will serve as a procedural device and only provide a basis for negotiation. It must not in any way be regarded as affecting either the status of proposals already made by delegations or the right of delegations to submit amendments or new proposals.

CONVENTION ON THE SEA-BED AND THE OCEAN FLOOR
AND THE SUB-SOIL THEREOF BEYOND THE LIMITS OF
NATIONAL JURISDICTION

PART I

INTERPRETATION

Article 1

For the purposes of this Convention

- (i) "States Parties" to this Convention means Contracting Parties.
- (ii) "Activities in the Area" means all activities of exploration of the Area and of the exploitation of its resources, as well as other associated activities in the Area including scientific research.
- (iii) "Resources" means resources in situ.
- (iv) Mineral resources means any of the following categorisation:
 - (a) liquid or gaseous substances such as petroleum, gas, condensate, helium, nitrogen, carbon dioxide, water, steam, hot water, and also sulphur and salts extracted in liquid form in solution;
 - (b) useful minerals occurring on the surface of the sea-bed or at depths of less than three meters beneath the surface and also concretions of phosphorites and other minerals;
 - (c) solid minerals in the ocean floor at depths of more than three meters from the surface;
 - (d) ore-bearing silt and brine.

PART II : PRINCIPLES

THE AREA AND ITS LIMITS

Article 2

1. This Convention shall apply to the sea-bed and ocean floor and subsoil thereof beyond the limits of national jurisdiction, hereinafter called the "Area".
2. States Parties to this Convention shall notify the International Seabed Authority established pursuant to Article 21 (hereinafter called the "Authority"), of the limits referred to in paragraph 1 of this article defined in this Convention and determined by co-ordinates of latitude and longitude and shall indicate the same on appropriate large scale charts officially recognised by that State.

3. The Authority shall register and publish such notification in accordance with rules adopted by it for the purpose.

4. Nothing in this article shall affect the validity of any agreement between States with respect to the establishment of limits between opposite or adjacent States.

COMMON HERITAGE OF MANKIND

Article 3

The Area and its resources are the common heritage of mankind.

NO CLAIM OR EXERCISE OF SOVEREIGNTY OR OTHER RIGHTS

Article 4

1. No State shall claim or exercise sovereignty or sovereign rights over any part of the Area or its resources, nor shall any State or person, natural or juridical, appropriate any part thereof. No such claim or exercise of sovereignty or sovereign rights, nor such appropriation shall be recognized.

2. States or persons, natural or juridical, shall claim, acquire or exercise rights with respect to the minerals in their raw or processed form derived from the Area only in accordance with the provisions of this Convention. Otherwise, no such claim, acquisition or exercise of rights shall be recognized.

GENERAL CONDUCT IN THE AREA AND IN RELATION TO THE AREA

Article 5

States shall act in, and in relation to, the Area in accordance with the provisions of this Convention and the United Nations Charter in the interests of maintaining international peace and security and promoting international co-operation and mutual understanding.

ACTIVITIES IN THE AREA

Article 6

Activities in the Area shall be governed by the provisions of this Convention and shall be subject to regulation and supervision by the Authority as provided herein. No such activities shall be carried out except in accordance with such regulations and the provisions of this Convention.

BENEFIT OF MANKIND AS A WHOLE

Article 7

Activities in the Area shall be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States, whether coastal or land-locked, and taking into particular consideration the interests and needs of the developing countries.

RESERVATION AND USE OF THE AREA EXCLUSIVELY FOR PEACEFUL PURPOSES

Article 8

1. The Area shall be reserved exclusively for peaceful purposes.
2. The Area shall be open to use exclusively for peaceful purposes by all States Parties, whether coastal or land-locked, without discrimination, in accordance with the provisions of this Convention, and regulations made thereunder.

GENERAL PRINCIPLES REGARDING ACTIVITIES IN THE AREA

Article 9

1. The development and use of the Area shall be undertaken in such a manner as to:
 - (a) foster the healthy development of the world economy and a balanced growth in international trade; and
 - (b) avoid or minimize any adverse effects on the revenues and economies of the developing countries, resulting from a substantial decline in their export earnings from minerals and other raw materials originating in their territory which are also derived from the Area.
2. Activities in the Area shall be carried out in an efficient manner to ensure:
 - (a) orderly and safe development and rational management of the Area and its resources;
 - (b) expanding opportunities in the use thereof;
 - (c) conservation and utilization of the resources of the Area for optimum benefit of producers and consumers of raw materials and of products made from them;
 - (d) equitable sharing in the benefits derived therefrom, taking into particular consideration the interests and needs of the developing countries, whether land-locked or coastal.

SCIENTIFIC RESEARCH

Article 10

1. Scientific research provided for in this Convention shall be carried out exclusively for peaceful purposes and for the benefit of mankind as a whole. The Authority shall be the centre for harmonizing and co-ordinating scientific research.
2. The Authority may itself conduct scientific research and may enter into agreements for that purpose.

3. States Parties shall promote international co-operation in scientific research in the Area exclusively for peaceful purposes by:

- (a) participation in international programmes and encouraging co-operation in scientific research by personnel of different countries and of the Authority;
- (b) ensuring that programmes are developed through the Authority for the benefit of developing countries and technologically less developed countries with a view to
 - (i) strengthening their research capabilities;
 - (ii) training their nationals and the personnel of the Authority in the techniques and applications of research;
 - (iii) fostering the employment of their qualified personnel in activities of research in the Area;
- (c) effective publication of research programmes and dissemination of the results of research through the Authority.

TRANSFER OF TECHNOLOGY

Article 11

1. The Authority and through it States Parties to this Convention shall take necessary measures for promoting the transfer of technology and scientific knowledge relating to activities in the Area so that all States benefit therefrom. In particular, they shall promote:

- (a) Programmes for the promotion of transfer of technology to developing countries with regard to activities in the Area, including, inter alia, facilitating the access of developing countries to patented and non-patented technology, under just and reasonable conditions;
- (b) Measures directed towards the acceleration of domestic technology of developing countries and the opening of opportunities to personnel from developing countries for training in marine science and technology and their full participation in activities in the Area.

PROTECTION OF THE MARINE ENVIRONMENT

Article 12

With respect to activities in the Area, appropriate measures shall be taken for the adoption and implementation of international rules, standards and procedures for, inter alia:

- (a) The prevention of pollution and contamination, and other hazards to the marine environment, including the coastline, and of interference with the ecological balance of the marine environment, particular attention being paid to the need for protection from the consequences of such activities as drilling, dredging, excavation, disposal of waste, construction and operation or maintenance of installations, pipelines and other devices related to such activities;

A/CONF.62/WP.8/Part I
page 6

- (b) The protection and conservation of the natural resources of the Area and the prevention of damage to the flora and fauna of the marine environment.

PROTECTION OF HUMAN LIFE

Article 13

With respect to activities in the Area, the Authority and States shall take appropriate measures for the adoption and implementation of international rules, standards and procedures for the protection of human life to supplement existing international law and any specific treaties which may be applicable.

RIGHTS OF COASTAL STATES

Article 14

1. Activities in the Area, with respect to resources in the Area which lie across limits of national jurisdiction, shall be conducted with due regard to the rights and legitimate interests of any coastal State across whose jurisdiction such resources lie.

Consultations, including a system of prior notification, shall be maintained with the State concerned, with a view to avoiding infringement of such rights and interests.

2. Neither the provisions of this Convention nor any rights granted or exercised pursuant thereto shall affect the rights of coastal States to take such measures in accordance with applicable principles of international law as may be necessary to prevent, mitigate or eliminate grave and imminent danger to their coastlines or related interests from pollution or threat thereof or from other hazardous occurrences resulting from or caused by any activities in the Area.

LEGAL STATUS OF THE SUPERJACENT WATERS AND AIRSPACE

Article 15

Neither the provisions of this Convention nor any rights granted or exercised pursuant thereto shall affect the legal status of the waters superjacent to the Area or that of the airspace above those waters.

ACCOMMODATION OF ACTIVITIES IN THE AREA AND IN THE MARINE ENVIRONMENT

Article 16

1. Activities in the Area shall be carried out with reasonable regard for other activities in the marine environment.
2. Stationary and mobile installations relating to the conduct of activities in the Area shall be subject to the following conditions:
 - (i) Such installations shall be erected, emplaced and removed solely in accordance with the provisions of this Convention and subject to rules and regulations prescribed by the Authority. The erection, emplacement and removal of such installations shall be the subject of timely notification through Notices to Mariners or other generally recognized means of notification;
 - (ii) Such installations shall not be located in the Area where they may obstruct passage through sea lanes of vital importance for international shipping or in areas of intense fishing activity;

- (iii) Safety zones shall be established around such installations with appropriate markings to ensure the safety both of the installations themselves and of shipping. The configuration and location of such safety zones shall not be such as to form a belt impeding the lawful access of shipping to particular maritime zones or navigation along international sea lanes:
 - (iv) Such installations shall be used exclusively for peaceful purposes;
 - (v) Such installations shall not possess the status of islands. They shall have no territorial sea, nor shall their presence affect the determination of territorial or jurisdictional limits of any kind.
3. Other activities in the marine environment shall be conducted with reasonable regard for activities in the Area.

RESPONSIBILITY TO ENSURE COMPLIANCE AND LIABILITY FOR DAMAGE

Article 17

1. Every State shall have the responsibility to ensure that activities in the Area, whether undertaken by governmental agencies, or non-governmental entities or persons under its jurisdiction, or acting on its behalf, shall be carried out in conformity with the provisions of this Convention. The same responsibility applies to international organizations and their members for activities in the Area undertaken by such organizations or on their behalf. Damage caused by such activities shall entail liability on the part of the State or international organization concerned, in respect of activities which it undertakes itself or authorizes.
2. A group of States or a group of international organizations, acting together shall be jointly and severally responsible under these articles.
3. Every State shall take appropriate measures to ensure that the responsibility provided for in paragraph 1 of this article shall apply mutatis mutandis to international organizations, of which it is a member.

PARTICIPATION OF DEVELOPING COUNTRIES, INCLUDING LAND-LOCKED AND OTHER GEOGRAPHICALLY DISADVANTAGED STATES

Article 18

Participation in the activities in the Area of developing countries, including the land-locked and other geographically disadvantaged States among them, shall be promoted, having due regard to their special needs and interests.

A/CONF.62/WP.8/Part I
page 8

ARCHAEOLOGICAL AND HISTORICAL OBJECTS

Article 19

1. All objects of an archaeological and historical nature found in the Area shall be preserved or disposed of by the Authority for the benefit of the international community as a whole, particular regard being paid to the preferential rights of the State of country of origin, or the State of cultural origin, or the State of historical and archaeological origin.

2. The recovery and disposal of wrecks and their contents more than 50 years old found in the Area shall be subject to regulation by the Authority without prejudice to the rights of the owner thereof.

3. Any dispute with regard to a preferential right under paragraph 1 or a right of ownership under paragraph 2, shall, on the application of either party, be subject to the procedure for settlement of disputes provided for in this Convention.

PART II: THE INTERNATIONAL SEA-BED AUTHORITY
ESTABLISHMENT OF THE INTERNATIONAL SEA-BED AUTHORITY

Article 20

1. There is hereby established the International Sea-bed Authority which shall function in accordance with the provisions of this Convention.
2. All States Parties to this Convention are members of the Authority.
3. The seat of the Authority shall be at Jamaica.
4. The Authority may establish such regional centres or offices as it deems necessary for the performance of its functions.

NATURE AND FUNDAMENTAL PRINCIPLES OF THE FUNCTIONING OF THE AUTHORITY

Article 21

1. The Authority is the organisation through which States Parties shall administer the Area, manage its resources and control the activities of the area in accordance with the provisions of this Convention.
2. The Authority is based on the principle of the sovereign equality of all of its Members.
3. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with this Convention.

FUNCTIONS OF THE AUTHORITY

Article 22

1. Activities in the Area shall be conducted directly by the Authority.
2. The Authority may, if it considers it appropriate, and within the limits it may determine, carry out activities in the Area or any stage thereof through States Parties to this Convention, or State enterprises, or persons natural or juridical which possess the nationality of such States or are effectively controlled by them or their nationals, or any group of the foregoing, by entering into service contracts, or joint ventures or any other such form of association which ensures this direct and effective control at all times over such activities.
3. Notwithstanding the provisions of paragraphs (1) and (2) of this article and in order to promote earliest possible commencement of activities in the area, the Authority, through the Council shall:
 - (i) identify as early as practicable after coming into force of this Convention ten economically viable mining sites in the Area for exploration and exploitation of no more than ... (size, etc.);

A/CONF.62/WP.8/Part. I
page 10

(ii) enter into joint ventures in respect of these sites with States Parties to this Convention or State-enterprises or persons natural and juridical which possess the nationality of such States or are effectively controlled by them or their nationals or any group of the foregoing. Such joint ventures shall be subject to the conditions of exploration and exploitation established by and under this Convention and shall always ensure the direct and effective control of the Authority at all times.

4. In entering into such joint ventures as provided for in para. 3 (ii) of this article, the Authority may decide on the basis of available data to reserve certain portions of the mining sites for its own further exploitation.

Article 23

1. In the exercise of its functions the Authority shall take measures pursuant to this Convention to promote and encourage activities in the Area and to secure the maximum financial and other benefit from them.

2. The Authority shall avoid discrimination in the granting of opportunities for such activities and shall, in the implementation of its powers, ensure that all rights granted pursuant to this Convention are fully safeguarded. Special consideration by the Authority under this Convention for the interests and needs of the developing countries, and particularly the land-locked among them, shall not be deemed to be discrimination.

3. The Authority shall ensure the equitable sharing by States in the benefits derived from activities in the Area, taking into particular consideration the interests and needs of the developing countries whether coastal or land-locked.

ORGANS OF THE AUTHORITY

Article 24

1. There are established as the principal organs of the Authority an Assembly, a Council, a Tribunal, an Enterprise and a Secretariat.

2. Such subsidiary organs as may be found necessary may be established in accordance with this Convention.

THE ASSEMBLY

Article 25

1. The Assembly shall consist of all the Members of the Authority.

2. The Assembly shall meet in regular session every two years and in such special sessions as may be determined by the Assembly, or convened by the Secretary General at the request of the Council or of a majority of the Members of the Authority.

3. Sessions shall take place at the seat of the Authority unless otherwise determined by the Assembly. At such sessions, each member shall have one representative who may be accompanied by alternates and advisers.
4. The Assembly shall elect its President and such other officers as may be required at the beginning of each session. They shall hold office until the new President and other officers are elected at the next following session.
5. Each Member of the Assembly shall have one vote.
6. All decisions on questions of substance and the question whether a question is one of substance or procedure, shall be made by a two-thirds majority of the Members present and voting, provided that such majority shall include at least a majority of the Members of the Authority. Decisions on other questions shall be made by a majority of the Members present and voting.
7. A majority of the Members of the Assembly shall constitute a quorum.
8. Upon a written request to the President supported by not less than one-third of the Members of the Assembly, a vote on any matter before the Assembly shall be deferred pending reference to the Tribunal for an Advisory Opinion on any legal question connected therewith. Voting on such matter shall be stayed pending delivery of the Tribunal's Advisory Opinion, or for a period of six months from the receipt of the request, whichever is earlier.

POWERS AND FUNCTIONS OF THE ASSEMBLY

Article 26

1. The Assembly shall be the supreme policy-making organ of the Authority. It shall have the power to lay down general guidelines and issue directions of a general character as to the policy to be pursued by the Council or other organs of the Authority on any questions or matters within the scope of this Convention. It may also discuss any questions or any matters within the scope of this Convention and make recommendations thereon.
2. In addition, the powers and functions of the Assembly shall include:
 - (i) Election of the members of the Council in accordance with article 28;
 - (ii) Appointment upon the recommendation of the Council, of the members of the Tribunal and of the Governing Board of the Enterprise;
 - (iii) Establishment, as appropriate, of such subsidiary organs as may be found necessary for the performance of its functions in accordance with the provisions of this Convention;
 - (iv) Assessment of the contributions of Parties to this Convention as necessary for meeting the administrative budget of the Authority;

- (v) Adoption of the financial regulations of the Authority, including rules on borrowing;
 - (vi) Approval of the budget of the Authority on its submission by the Council;
 - (vii) Adoption of its rules of procedure;
 - (viii) Request and consideration of special reports from the Council and from the other organs of the Authority on any matter within the scope of this Convention;
 - (ix) Studies and recommendations for the purpose of promoting international co-operation concerning activities in the Area and encouraging the progressive development of international law relating thereto and its codification;
 - (x) Adoption of criteria, rules, regulations and procedures, for the equitable sharing of benefits derived from the Area and its resources, taking into special account the interests and needs of the developing countries, whether coastal or land-locked;
 - (xi) Consideration of problems arising from States in connexion with activities in the Area, from the land-locked or otherwise geographically disadvantaged location of some of them and to recommend basic guidelines for appropriate action.
3. The powers and functions of the Authority not specifically entrusted to other organs of the Authority shall be vested in the Assembly.

THE COUNCIL

Article 27

1. The Council shall consist of 36 Members of the Authority elected by the Assembly; 24 to be elected in accordance with the principle of equitable geographical representation and 12 with a view to representation of special interests, taking into account the principle of equitable geographical representation, the election to take place in the following order:

(a) Six Members with substantial investment in, or possessing advanced technology which is being used for, the exploration of the Area and the exploitation of its resources, and Members which are major importers of landbased minerals which are also produced from the resources of the Area, provided only that at the first election at least one of these six members shall be from the Eastern (Socialist) European region.

(b) Six Members from among the developing countries, one being drawn from each of the following categories:

(i) States which are exporters of landbased minerals which may also be produced from the resources of the Area;

- (ii) States which are importers of the minerals referred to in sub-paragraph (i);
- (iii) States with large populations;
- (iv) Land-locked States;
- (v) Geographically disadvantaged States;
- (vi) Least developed countries.

(c) Twenty-four Members in accordance with the principle of equitable geographical representation. For this purpose, the geographical regions shall be Africa, Asia, Eastern Europe, (Socialist), Latin America and "Western Europe and others".

2. Elections shall take place at regular sessions of the Assembly, and each member of the Council shall be elected for a term of 4 years. In the first election of members of the Council, however, eighteen members shall be chosen for a period of two years.
3. Members shall be eligible for re-election; but due regard should, as a rule, be paid to the desirability of rotating seats.
4. The Council shall function at the seat of the Authority, and shall meet as often as the business of the Authority may require, but not less than three times a year.
5. Each member of the Council shall have one vote.
6. Decisions on important questions shall be made by a two-thirds plus one majority of the members present and voting. The decision on an issue as to whether or not a matter is an important question shall be taken by a two-thirds majority. Decisions on other questions shall be decided by a majority of the members present and voting.
7. The Council shall establish a procedure whereby a Member of the Authority not represented on the Council may send a representative to attend a meeting of the Council when a request is made by such Member, or a matter particularly affecting it is under consideration. Such a representative shall be entitled to participate in the deliberations but not to vote.

POWERS AND FUNCTIONS OF THE COUNCIL

Article 28

The Council shall be the executive organ of the Authority. It shall exercise the powers and perform the functions entrusted to it by this Convention. In exercising such powers and performing such functions the Council shall act in a manner consistent with general guidelines and policy directions laid down by the Assembly.

The Council shall:

- (i) Supervise and coordinate the implementation of the provisions of this Convention and, whenever it deems it appropriate, invite the attention of the Assembly to cases of non-compliance;

- (ii) Recommend to the Assembly candidates for appointment to the Tribunal and to the Governing Board of the Enterprise;
- (iii) Establish, as appropriate and with due regard to economy and efficiency, in addition to the Commissions provided for in article 30, such subsidiary organs as may be found necessary for the performance of its functions in accordance with the provisions of this Convention. In the composition of such subsidiary organs due regard shall be paid not only to the need for Members highly qualified and competent in the relevant technical matters which may arise in such organs but also to special interests and the principle of equitable geographical distribution;
- (iv) Adopt its rules of procedure;
- (v) Enter into agreements with the United Nations or other inter-governmental organisations on behalf of the Authority, subject to approval by the Assembly;
- (vi) Transmit annually to the Assembly a schedule for apportionment of benefits derived from activities in the Area on the basis of criteria and rules adopted by the Assembly pursuant to sub-paragraph 1(x) of Article 26;
- (vii) Transmit to the Assembly the reports of the Enterprise;
- (viii) Transmit to the Assembly annual reports and such special reports as the Assembly may request;
- (ix) Approve and supervise the carrying out of activities in the Area by the Enterprise;
- (x) Approve on behalf of the Authority contracts for the conduct of activities in the Area and exercise direct and effective control over the activities in the Area;
- (xi) Adopt, upon the recommendation of the Economic Planning Commission, programmes or measures to avoid or minimize adverse effects on the revenues of developing countries derived from the export of minerals and other products originating in their territories which are also derived from the resources of the Area. The Council shall ensure that developing countries importers of minerals or other products derived from the resources of the Area shall be given preferential access or favourable terms to such minerals and products;
- (xii) Adopt, on the recommendation of the Technical Commission, rules, regulations and procedures and any amendments thereto concerning:
 - (a) technical, operational and financial matters relating to activities in the Area in accordance with the Basic Conditions annexed to this Convention;
 - (b) protection of human life and health;
 - (c) protection and preservation of the marine environment;

- (d) discovery, identification, protection, acquisition and disposal of objects of archaeological and historical interest found in the Area;
- (e) any other matters within the scope of the powers and functions of the Council.
- (xiii) Arrange for and review the collection of all payments to be made by or to the Authority in connexion with operations pursuant to this Convention;
- (xiv) Make recommendations to the Assembly on the matters specified in subparagraph (ii) of paragraph 1 of Article 25 and Article 72, and, as appropriate, on any other matter within the scope of the functions of the Council;
- (xv) Make recommendations to States concerning the policies and measures required to give effect to the principles of this Convention;
- (xvi) Make recommendations to the Assembly concerning suspension of the privileges and rights of membership for gross and persistent violations of the provisions of this Convention.

ORGANS OF THE COUNCIL

Article 29

1. There are hereby established as organs of the Council an Economic Planning Commission, and a Technical Commission each of which shall be composed of fifteen members appointed by the Council with due regard to not only the need for Members highly qualified and competent in the technical matters which may arise in such organs but also to special interests and the principle of equitable geographical distribution.
2. The Council shall invite States Parties to this Convention to submit nominations for Appointment to each commission.
3. Appointment to each commission shall take place not less than sixty days before the end of a calendar year and the members of a commission shall hold office from the commencement of the next calendar year following their appointment until the end of the third calendar year thereafter. The first appointments to a commission, however, shall take place not less than thirty days after the entry into force of this Convention, and those so appointed shall hold office until the end of the calendar year next following the year of their appointment.
4. In the event of the death, incapacity or resignation of a member of a commission prior to the expiry of his term of office, the Council shall appoint a member from the same area or interest who shall hold office for the remainder of the previous member's term.
5. The Council shall appoint to the commission persons of high moral character who may be relied upon to exercise independent judgment. They shall serve in their individual capacity and shall receive such regular remuneration from the Authority as the Council shall from time to time determine. Members of a commission shall be eligible for re-appointment for one further term of office.

A/CONF.62/WP.8/Part I
page 16

6. Each commission shall appoint its chairman and two vice-chairmen who shall hold office for one year.
7. The Council shall approve, on the recommendation of a commission, such rules and regulations as may be necessary for the efficient conduct of the functions of the commission.
8. Decisions shall be by a 2/3 majority of members of the commission.
9. Each commission shall function at the seat of the Authority and shall meet as often as shall be required for the efficient performance of its functions.

THE ECONOMIC PLANNING COMMISSION

Article 30

1. Members of the Economic Planning Commission shall have appropriate qualifications and experience relevant to mining and the management of mineral resource activities, and international trade and finance.
2. The Economic Planning Commission, in consultation with the competent organs of the United Nations and the specialized agencies, shall review the trends of, and factors affecting, supply, demand and prices of raw materials which may be obtained from the Area and, bearing in mind the interests of both consuming and land-based mineral producing countries, and in particular the developing countries among them, make recommendations to the Council on programmes and measures with respect to the implementation of Article 22 of this Convention and in particular:
 - (a) Schedules of the extent of the Area or the volume of its resources which would be made available for exploitation; and
 - (b) Appropriate programmes or measures, including integrated commodity arrangements and buffer stock arrangements, to avoid or minimize adverse effects on developing countries whose economies substantially depend on the revenues derived from the export of minerals and other raw materials originating in their territories which are also derived from the resources of the Area under exploitation taking into account all sources of these minerals and raw materials.
3. The Commission shall advise the Council in the exercise of the Council's economic planning functions and make such special studies and reports on these functions as may be required by the Council from time to time.
4. Any State Party to this Convention whose economy substantially depends on the export of minerals and other products originating in its territory which are also derived from minerals under exploitation in the Area may bring to the attention of the Economic Planning Commission a situation which is likely to lead to a substantial decline in its mineral export earnings. The Commission shall forthwith investigate this situation and shall make recommendations, in consultation with parties to this Convention and with the competent inter-governmental organizations to the Council in accordance with paragraph 2 of this article.

THE TECHNICAL COMMISSION

Article 31

1. Members of the Technical Commission shall have appropriate qualifications and experience in the management of sea-bed resources, ocean and marine engineering and mining and mineral processing technology and practices, operations of related marine installations, equipment and devices, ocean and environmental sciences and maritime safety, accounting and actuarial techniques.

2. The Technical Commission shall:

- (i) Formulate and submit to the Council the technical and operational rules, regulations and procedures referred to in paragraph (xiii) of Article 27;
- (ii) Keep such rules, regulations and procedures under review and recommend to the Council from time to time such amendments thereto as it may deem necessary or desirable;
- (iii) Make recommendations to the Council with regard to the carrying out of the Authority's functions with respect to scientific research and transfer of technology;
- (iv) Prepare special studies and reports at the request of the Council;
- (v) Prepare assessments of the environmental implications of activities in the area and consider and evaluate these implications before recommending the rules, regulations and procedures referred to in sub-paragraph (i) of this paragraph;
- (vi) Supervise, on a regular basis, all operations with respect to activities in the Area, where appropriate in consultation and collaboration with any entity carrying out such activities or State or States concerned;
- (vii) Notify the Council of any cases of failure to comply with the provisions of the present Convention, the rules, regulations and procedures prescribed thereunder and the terms and conditions of a contract, and make recommendations to the Council with respect to measures to be taken in that regard.

THE TRIBUNAL

Article 32

1. The Tribunal shall have jurisdiction with respect to:

- (a) Any dispute relating to the interpretation or application of this Convention; and
- (b) Any dispute connected with the subject matter of this Convention and submitted to it pursuant to a contract or arrangement entered into pursuant to this Convention.

A/CONF.62/WP.8/Part I
page 18

2. The Tribunal shall exercise all powers and perform all functions referred to under articles 57, 58, 60, 61, 62 and 63.

3. The Tribunal shall be composed of a body of independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in law of the sea matters and other areas of international law.

4. The Tribunal shall consist of nine judges, five of whom shall constitute a quorum.

5. Members of the Tribunal shall be appointed by the Assembly on the recommendation of the Council from among candidates nominated by States Parties to this Convention. In appointing members of the Tribunal due regard shall be paid to the importance of assuring representation on the Tribunal of the principal legal systems of the world.

6. Members of the Tribunal hold office for five years and may be reappointed for one further term; provided that the terms of the four judges elected at the first election shall expire at the end of three years.

7. The Members of the Tribunal unless removed in accordance with paragraph 9 shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun.

8. Upon the occurrence of a vacancy in the Tribunal, the Council shall appoint a successor who shall hold office for the remainder of his predecessor's term, subject to the approval of the Assembly at its next regular session.

9. A member of the Tribunal may be removed from office by the Assembly, on the unanimous recommendation of the other members of the Tribunal and the approval of the Council.

10. The Tribunal shall establish its rules of procedure, elect its President annually, appoint a Registrar and such staff as may be necessary for the efficient discharge of its functions. The salaries and emoluments and terms of service of members of the Tribunal, and of its Registrar and staff, shall be determined by the Council.

Article 33

The Tribunal shall decide all disputes relating to the interpretation and application of this Part, the rules, regulations and procedures prescribed thereunder and the terms and conditions of any contracts entered into by the Authority which have been submitted to it, and shall render advisory opinions on the request of any organ of the Authority or as otherwise specifically provided in this Part.

Article 34

Nothing in the foregoing articles shall prevent Members of the Authority from settling their disputes by any other means prescribed by Article 57 of this Convention.

THE ENTERPRISE

Article 35

1. The Enterprise shall be the organ of the Authority which shall, subject to the general policy directions and supervision of the Council, undertake the preparation and execution of activities of the Authority in the Area, pursuant to Article 22. In the exercise of its functions, it may enter into appropriate agreements on behalf of the Authority.
2. The Enterprise shall have international legal personality and such legal capacity as may be necessary for the performance of its functions and the fulfilment of its purposes. The Enterprise shall function in accordance with the Statute set forth in Annex ... to this Convention, and shall in all respects be governed by the provisions of this Convention. Appointment of the Members of the Governing Board under article 26 (ii) of this Convention shall be made on the basis of equal representation of all geographical regions enumerated in article 27 (1) (c) and in accordance with the provisions of the Statute set forth in Annex II to this Convention.
3. Members of the Authority are ipso facto parties to the Statute of the Enterprise.
4. The Enterprise shall have its principal place of business at the seat of the Authority.

THE SECRETARIAT

Article 36

The Secretariat shall comprise a Secretary-General and such staff as the Authority may require. The Secretary-General shall be appointed by the Assembly upon the recommendation of the Council. He shall be the chief administrative officer of the Authority.

Article 37

The Secretary-General shall act in that capacity in all meetings of the Assembly and of the Council, and of any subsidiary organs established by them, and shall perform such other functions as are entrusted to him by any organ of the Authority. The Secretary-General shall make an annual report to the Assembly on the work of the organisation.

Article 38

1. The staff of the Authority shall include such qualified scientific and technical and other personnel as may be required to fulfil the objective and functions of the Authority. The Authority shall be guided by the principle that its permanent staff shall be kept to a minimum.
2. The paramount consideration in the recruitment and employment of the staff and in the determination of their conditions of service shall be to secure employees of the highest standards of efficiency, competence and integrity. Subject to this consideration, due regard shall be paid to the importance of recruiting staff on as wide a geographical basis as possible.
3. The staff shall be appointed by the Secretary-General. The terms and conditions on which the staff shall be appointed, remunerated and dismissed shall be in accordance with regulations made by the Council, and to general rules approved by the Assembly on the recommendation of the Council.

Article 39

In the performance of their duties, the Secretary-General and the staff shall not seek or receive instructions from any government or from any other source external to the Authority. They shall refrain from any action which might reflect on their position as international officials of the Authority responsible only to the Authority. They shall have no financial interest whatsoever in any activity relating to exploration and exploitation in the Area. Subject to their responsibilities to the Authority, they shall not disclose any industrial secret or data declared by the Authority to be proprietary or other confidential information coming to their knowledge by reason of their official duties for the Authority. Each Party to this Convention undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

Article 40

1. The Authority shall, as necessary, establish a staff of inspectors. The staff of inspectors shall have the responsibility of examining all activities in the Area to determine whether the provisions of this Convention, the rules, regulations and procedures prescribed thereunder, and the terms and conditions of any contract with the Authority pursuant to this Convention are being complied with.
2. The inspectors shall report any non-compliance to the Secretary-General. The Secretary-General shall immediately notify the Chairmen of the Council and of the Technical Commission.

Article 41

1. The Secretary-General may send into the territory of a party to this Convention and into the Area and any installation established therein, inspectors after consultation with the parties concerned. The inspectors shall have access at all times to all places and data and to any person who deals with any activity in the Area pursuant to this Convention, and to any books of account and records kept with respect to such activity.

2. Inspectors shall, upon request made to the Secretary-General, be accompanied by representatives of any State Party to this Convention and any party involved, provided that the inspectors shall not thereby be delayed or otherwise impeded in the exercise of their functions.

PART III: FINANCE

Article 42

The Assembly shall establish the General Fund of the Authority.

All receipts of the Authority arising from activities in the Area, including any excess of revenues of the Enterprise over its expenses and costs in such proportion as the Council shall determine shall be paid into the General Fund.

Article 43

The Council shall submit to the Assembly annual budget estimates for the expenses of the Authority. To facilitate the work of the Council in this regard, the Secretary-General shall initially prepare the budget estimates. If the Assembly does not approve the estimates, it shall return them together with its recommendations, to the Council. The Council shall then submit further estimates to the Assembly for its approval.

Article 44

1. Expenses of the Authority comprise:

(a) administrative expenses, which shall include costs of the staff of the Authority; costs of meetings, and expenditure on account of the functioning of the organs of the Authority;

(b) expenses not included in the foregoing, incurred by the Authority in carrying out the functions entrusted to it under this Convention; and

(c) the expenditure of the Enterprise, to the extent that it cannot be met out of the Enterprise's own revenues and other receipts.

2. The expenses referred to in paragraph 1 of this article shall be met to an extent to be determined by the Assembly on the recommendation of the Council, out of the General Fund, the balance of such expenses to be met out of contributions by members of the Authority in accordance with a scale of assessment adopted by the Assembly pursuant to the sub-paragraph 1(iv) of Article 25.

Article 45

1. Any excess of revenues of the Authority over its expenses and costs to an extent determined by the Council, all payments received pursuant to Article 43 of this Convention and any voluntary contributions made by States Parties to this Convention shall be credited to a Special Fund.

2. Amounts in the Special Fund shall be apportioned and made available equitably in such manner and in such currencies, and otherwise in accordance with criteria, rules, regulations and procedures adopted by the Assembly pursuant to sub-paragraph 1(x) of Article 25.

Article 46

Subject to such limitations as may be approved by the Assembly in the financial regulations adopted by it pursuant to sub-paragraph 1(vi) of Article 25, the Council may exercise borrowing powers on behalf of the Authority without, however, imposing on members of the Authority any liability in respect of loans entered into pursuant to this paragraph, and accept voluntary contributions made to the Authority.

Article 47

The records, books and accounts of the Authority, including its annual financial statements, shall be subject to an annual audit by a recognized independent auditor.

STATUS, IMMUNITIES AND PRIVILEGES

Article 48

The Authority shall have full international legal personality, and such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purpose.

Article 49

To enable the Authority to fulfil its functions it shall enjoy in the territory of each State Party to this Convention, the immunities and privileges set forth herein except as provided in annex ... to this Convention with respect to operations of the Enterprise.

Article 50

The Authority, its property and assets, shall enjoy in the territory of each State Party to this Convention, immunity from legal process, except when the Authority waives its immunity.

Article 51

The property and assets of the Authority, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

Article 52

All property and assets of the Authority shall be free from restrictions, regulations, controls and moratoria of any nature.

Article 53

The President and members of the Assembly, the Chairman and members of the Council, members of any organ of the Assembly, or the Council, and members of the Tribunal, and the Secretary-General and staff of the Authority, shall enjoy in the territory of each member State:

A/CONF.62/WP.8/Part I
page 24

(a) Immunity from legal process with respect to acts performed by them in the exercise of their functions, except when the Authority waives this immunity;

(b) Not being local nationals, the same immunities from immigration restrictions, alien registration requirements and national service obligations, the same facilities as regards exchange restrictions and the same treatment in respect of travelling facilities as are accorded by States Parties to this Convention to the representatives, officials and employees of comparable rank of other States Parties.

Article 54

The provisions of the preceding article shall apply to persons appearing in proceedings before the Tribunal as parties, agents, counsel, advocates, witnesses or experts; provided, however, that sub-paragraph (b) thereof shall apply only in connexion with their travel to and from, and their stay at, the place where the proceedings are held.

Article 55

1. The archives of the Authority shall be inviolable, wherever they may be.
2. All proprietary data, industrial secrets or similar information and all personnel records shall not be placed in archives open to public inspection.
3. With regard to its official communications, the Authority shall be accorded by each State Party to this Convention treatment no less favourable than that accorded to other international organizations.

Article 56

1. The Authority, its assets, property and income, and its operations and transactions authorized by this Convention, shall be exempt from all taxation and customs duties. The Authority shall also be exempt from liability for the collection or payment of any taxes or customs duties.
2. Except in the case of local nationals, no tax shall be levied on or in respect of expense allowances paid by the Authority to the President or members of the Assembly, or in respect of salaries, expense allowances or other emoluments paid by the Authority to the Chairman and members of the Council, members of the Tribunal, members of any organ of the Assembly or of the Council and the Secretary-General and staff of the Authority.

SETTLEMENT OF DISPUTES

Article 57

When a dispute falling within article 32 of this Convention has arisen between States Parties to this Convention, or between such State Party and a national of another State Party, or between nationals of different States Parties, or between a State Party or a national of a State Party and the Authority or the Enterprise,

the parties to the dispute shall first seek a solution through consultation, negotiation, conciliation or other such means of their own choice. If the dispute has not been resolved within one month of its commencement, any party to the dispute may institute proceedings before the Tribunal, unless the parties agree to submit the dispute to arbitration pursuant to article 63 of this Convention.

Article 58

1. Any State Party to this Convention which questions the legality of measures taken by the Council, or of any organ of the Council or the Assembly on grounds of a violation of this Convention, lack of jurisdiction, infringement of any fundamental rule of procedure or misuse of power, may bring the matter before the Tribunal.
2. The proceedings provided for in this article shall be instituted within one month of either the date of publication of the decision concerned or its notification to the complainant, or of the date on which he became aware of it.
3. If the Tribunal considers the complaint well-founded, it shall declare the decision concerned to be void, and shall determine what measures shall be taken to redress any damage caused.

Article 59

1. Judgements and orders of the Tribunal shall be final and binding. They shall be enforceable in the territories of Members of the Authority in the same way as judgments or orders of the highest court of that Member State.
2. If a Member of the Authority fails to perform its obligations under a judgment rendered by the Tribunal, the other party or parties to the dispute may bring the matter before the Council which shall decide upon measures to be taken to give effect to the judgment.

Article 60

1. At any time after it is seized of the dispute, the Tribunal may, if it considers that the circumstances so require, order provisional measures for the purpose of preserving the respective rights of the parties, or preventing serious harm to the marine environment.
2. A party to the dispute directly affected by such provisional measures may request their immediate review. The Tribunal shall promptly undertake such review and confirm or suspend its order.

Article 61

1. The Tribunal may seek the opinion of any organ of the Council regarding an issue falling within its competence.
2. The Tribunal shall decide whether proceedings shall be suspended until the opinion sought has been made available.

Article 62

Any organ of the Authority may request the Tribunal to give an advisory opinion on any legal question connected with the subject matter of this Convention.

Article 63

1. If the parties to a dispute so agree, pursuant to Article 57, they shall submit the dispute to an Arbitration Commission. The Arbitration Commission shall be composed of three members. Each party to the dispute shall appoint one member to the Commission, while the third member, who shall be the Chairman, shall be chosen in common agreement between the parties. If the parties fail to agree on the designation of the third member within a period of one month, the third member shall be appointed by the President of the Tribunal. In case any of the parties fail to make an appointment within a period of one month the President of the Tribunal shall fill the remaining vacancy or vacancies.
2. The Arbitration Commission shall decide on matters placed before it by a simple majority.
3. The Arbitration Commission constituted pursuant to this article shall have such jurisdiction and shall exercise such powers and functions as the Tribunal constituted pursuant to Article 32. The provisions of Articles 58-61 shall apply mutatis mutandis to the Arbitration Commission.

PART IV: FINAL PROVISIONS

AMENDMENT

Article 64

Amendments to this Convention may be proposed by any State Party to this Convention. Certified copies of the text of any amendment proposed shall be prepared by the Secretary-General and communicated by him to all parties, at least ninety days in advance of its consideration by the Assembly.

Article 65

Amendments shall come into force for all States Parties to this Convention when:

- (i) Approved by the Assembly by a two-thirds majority of those present and voting after consideration of observations submitted by the Council on proposed amendments; and
- (ii) Accepted by two-thirds of all the States Parties in accordance with their respective constitutional processes. Acceptance by a State Party shall be effected by the deposit of an instrument of acceptance with the Secretary-General of the United Nations.

GENERAL REVIEW

Article 66

At the third regular session of the Assembly following the coming into force of this Convention, the question of a general review of the provisions of this Convention shall be placed on the agenda of that session. On approval by a majority of the members present and voting, the review will take place at the following Assembly. Thereafter, proposals on the question of a general review of this Convention may be submitted for decisions by the Assembly under the same procedure.

SUSPENSION OF PRIVILEGES

Article 67

A State Party of the Authority which is in arrears in the payment of its financial contributions to the Authority shall have no vote in the Authority if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two years. The Assembly may permit such a State Party to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the State Party.

Article 68

1. A member which has persistently violated the provisions of this Convention or of any agreement or contractual arrangement entered into by it pursuant to this Convention, may be suspended from the exercise of the privileges and the rights of membership by the Assembly acting on a two-thirds majority of the States Parties present and voting upon recommendations by the Council.
2. No action may be taken under this article until the dispute settlement

SIGNATURE

Article 69

The present Convention shall be open for signature by all States members of the United Nations or of any of the Specialized Agencies or of the International Atomic Energy Agency or parties to the Statute of the International Court of Justice, and by any other State invited to participate in the Third United Nations Conference on the Law of the Sea or invited by the Assembly of the Authority to become a party to the Convention, as follows: until 31 December 1976 at the Ministry of Foreign Affairs of the Republic of Venezuela, and subsequently, until 30 June 1977 at United Nations Headquarters, New York.

RATIFICATION

Article 70

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

ACCESSION

Article 71

The present Convention shall remain open for accession by any State belonging to any of the categories mentioned in article 69. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

ENTRY INTO FORCE

Article 72

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the thirty-sixth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the thirty-sixth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

PROVISIONAL APPLICATION

Article 73

1. Pending the definitive entry into force of this Convention in accordance with the provisions of Article 72, a State may notify upon signing this Convention the Secretary-General of the United Nations that it will apply this Convention provisionally and that it will undertake to seek ratification or accession in accordance with constitutional procedures as rapidly as possible.
2. This Convention shall enter provisionally into force upon the thirty-sixth such notification to the Secretary-General of the United Nations.
3. Upon provisional entry into force of this Convention in accordance with paragraph 2, any State which has notified the Secretary-General of the United Nations of its intention to apply this Convention provisionally in accordance with paragraph 1, shall be regarded as being Party for the purpose of provisional application of this Convention.

4. The provisional application of this Convention with respect to a State shall be terminated if that State notifies the other Parties to provisional application of the withdrawal of its notification under paragraph 1.

5. The provisional application of this Convention in accordance with this article shall be terminated:

(a) Upon the definitive entry into force of this Convention in accordance with Article 72;

(b) If, as a result of withdrawal of notification, in accordance with paragraph 4 above, the total number of Contracting Parties becomes less than that provided for in paragraph 2;

(c) At the end of a period of years after the commencement of provisional application.

6. If, at the end of six months after the opening of the Convention for signature, provisional entry into force as provided for in Article 73 does not occur, an Interim Commission shall come into existence, as provided for in Annex III to this Convention.

DEPOSITORY

Article 74

The Secretary-General of the United Nations shall inform all States belonging to any of the categories mentioned in Article 69 of:

(a) Signature to the present Convention and of the deposit of instruments of ratification or accession in accordance with Articles 69, 70 and 71 respectively;

(b) Notification of provisional application in accordance with Article 73;

(c) The date on which the present Convention will enter into force in accordance with Article 72;

(d) Date on which the present Convention will provisionally enter into force in accordance with Article 73.

AUTHENTIC TEXTS

Article 75

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

DONE AT CARACAS, this day of one thousand nine hundred and seventy-six.

ANNEXES

- I. BASIC CONDITIONS OF EXPLORATION AND EXPLOITATION (text attached)
- II. STATUTE OF THE ENTERPRISE
- III. STATUTE OF THE TRIBUNAL

ANNEX IBASIC CONDITIONS OF GENERAL SURVEY EXPLORATION AND EXPLOITATIONPART ARIGHTS IN THE AREA AND ITS RESOURCES

1. The Area and its resources being the common heritage of mankind all rights in the resources are vested in the Authority on behalf of mankind as a whole. These resources are not subject to alienation.

RIGHTS IN MINERALS

2. Title to the minerals or processed substances derived from the Area shall pass from the Authority only in accordance with the provisions of this Convention, the rules and regulations prescribed by the Authority in accordance with this Convention, and the terms and conditions of the relevant contracts, joint ventures or other form of association entered into by it.

ACCESS TO THE AREA AND ITS RESOURCES

3. The Authority shall from time to time determine the part or parts of the Area in which the exploration of the Area and the exploitation of its resources and other associated activities may be conducted. In doing so the Authority shall be guided by the following principles:

(a) The Authority shall encourage the conduct of general survey operations, and to that end shall regularly, after consultation with all States Parties, open for general survey the sea-bed and ocean floor of such oceanic areas as are determined by it to be of interest for this purpose. General Survey may be carried out by any entity which meets the environmental protection regulations of the Authority and enters into a contract with it.

(b) The Authority may, upon the proposal of a State Party to this Convention or on its own initiative, open for evaluation and exploitation the sea-bed and ocean floor of oceanic areas determined by it on the basis of sufficient supporting data, to be of commercial interest. Such evaluation and exploitation shall be conducted directly by the Authority in accordance with part B and, within the limits it may determine in accordance with paragraph 8(f), through States Parties to this Convention, or State Enterprises, or persons natural or juridical which possess the nationality of such

A/CONF.62/WP.8/Part I
Annex I
page 2

States, or are effectively controlled by them or their nationals, when sponsored by a State Party, by entering into contracts for associated operations in accordance with paragraphs 5 and 6.

Provided, however, that the Authority may refuse to open any part or parts of the Area pursuant to this paragraph when the available data indicates the risk of irreparable harm to a unique environment or unjustifiable interference with other uses of the Area.

PART B

4. The Enterprise may at any time, in any part or parts of the Area determined by the Authority to be open for activities pursuant to paragraph 3 of these Basic Conditions, carry out directly scientific research or a general survey or exploration of the Area or operations relating to evaluation and exploitation of the resources of the Area, including feasibility studies, construction of facilities, processing, transportation and marketing pursuant to a Plan of Operations approved by the Council, subject to the following conditions:-

(a) The Enterprise shall submit to the Council in the form prescribed by it for the purpose such information, including a detailed financial analysis of costs and benefits, as would enable the Council to review the financial and technical aspects of the proposed Plan of Operations, as well as a Work Programme, which shall accommodate the objectives of the Authority as reflected in article 24 of this Part.

(b) If on the basis of such information and after taking into consideration all relevant factors, the Council determines that the proposed Plan of Operations offers optimum benefits to the Authority, the Council shall approve the Plan.

(c) Activities in the Area conducted directly by the Enterprise shall, mutatis mutandis, be subject to the relevant Basic Conditions set forth in Part C.

(d) To the extent that the Enterprise does not currently possess the personnel, equipment and services for its operations, it may employ them under its direction and management on a non-discriminatory basis if they meet the qualifications set forth in paragraph 5. The terms and conditions of such employment shall be in accordance with the relevant provisions of these Basic Conditions.

(e) Minerals and processed substances produced by the Enterprise shall be marketed in accordance with rules, regulations and procedures adopted by the Council in accordance with the following criteria:

(i) The products of the Enterprise shall be made available to States Parties.

(ii) The Enterprise shall offer its products for sale at not less than international market prices. It may, however, sell its products at lower prices to developing countries, particularly the least developed among them.

- (iii) Production and marketing of the resources of the Area by the Enterprise shall be maintained or expanded in accordance with the provisions of article 10 of this Part.
- (iv) The Enterprise shall, except as specifically provided in this Part, market its products without discrimination.

PART CCONTRACTS FOR ASSOCIATED OPERATIONS

5. On the application of any State Party to this Convention, or State enterprise, or person natural or juridical which possesses the nationality of a State Party or is effectively controlled by it or its nationals and is sponsored by a State Party or any group of the foregoing (hereinafter called the "applicant"), the Authority may enter into a contract, joint venture or any other such form of association, for the conduct of scientific research, or for the carrying out of a general survey or exploration of the Area, or of operations relating to evaluation and exploitation of the Area including such stages as feasibility study, construction of facilities, processing, transportation and marketing (hereinafter called the "contract").

6. Every contract entered into by the Authority pursuant to paragraph 4 shall:

(a) be in strict conformity with this Convention and the rules and regulations prescribed by the Authority in accordance with the Convention;

(b) ensure direct and effective fiscal and administrative control by the Authority at all stages of operations through appropriate institutional arrangements entered into pursuant to this Part.

QUALIFICATION OF APPLICANTS

7. (a) The Authority shall adopt appropriate administrative procedures and rules and regulations for making an application pursuant to paragraph 5, and the qualifications of any applicant referred to therein. Such qualifications shall include (1) financial standing, (2) technological capability, and (3) past performance and work experience.

(b) States Parties which apply to enter into contracts with the Authority shall be presumed to possess the qualifications specified in subparagraph (a). They shall be deemed to have waived their sovereign immunity with respect to financial and economic obligations covered by such contracts.

(c) Each applicant shall, in addition, submit to the Authority a work programme which shall accommodate the objectives of the Authority as reflected in this Part and the rules and regulations adopted thereunder.

(d) Each applicant shall undertake to comply with the provisions of this Convention and the rules and regulations adopted by the Authority, and to accept control by the Authority in accordance therewith.

A/CONF.62/WP.8/Part I

Annex I

page 4

SELECTION OF APPLICANTS

8. (a) Upon receiving an application pursuant to paragraph 5 with respect to activities of evaluation and exploitation, the Authority shall first ascertain whether any competing application has been received for the area applied for. If no such competing application has been received, the Authority shall enter into negotiations with a view to concluding a contract with the applicant in respect of the area applied for, provided that the applicant has completed the procedures and possesses the qualifications prescribed pursuant to paragraph 6 and, after a consideration of all relevant factors is deemed to offer the Authority optimum benefits. The Enterprise may not refuse to enter into a contract if the criteria in paragraph 9(d) have been satisfied, and the contract in all other respects is in strict conformity with the provisions of this Part and of the rules, regulations and procedures adopted thereunder, subject to the stated resource policy established by the Authority.

(b) Applicants shall be required to comply with requirements of the Authority to achieve the objectives set forth in article 12 of this Part.

(c) If the Authority receives more than one application in respect of substantially the same area and category of minerals, selection from among the applicants shall be made on a competitive basis taking into account the extent to which each applicant satisfies the requirements of paragraph 6. The Authority shall enter into negotiations with a view to concluding a contract with the applicant which, after a consideration of all relevant factors, is deemed to offer the Authority optimum benefits including financial arrangements in accordance with paragraph 9(d).

(d) The principles set forth in sub-paragraphs (a), (b) and (c) shall be applied mutatis mutandis in prescribing procedures, rules and regulations for the selection of applicants for contracts with respect to activities other than evaluation and exploitation.

(e) When a contractor that has entered into a contract with the Authority for one or some of the stages of operations referred to in paragraph 4 has completed performance under it, he shall have priority among applicants for a contract or contracts for one or more further stages of operations with regard to the same area and resources; provided, however, that where the contractor has not carried out his obligations satisfactorily, such priority may be withdrawn.

(f) The total number of contracts for evaluation and exploitation entered into by the Authority with a single State Party or with natural and juridical persons under the sponsorship of a single State Party shall not exceed .. per cent of the total area open under paragraph 3, and shall be equal for all States Parties.

(g) Within the limits specified in sub-paragraph (f) the Council may every year determine the number of contracts to be entered into by the Authority with a single State Party or with natural and juridical persons under the sponsorship of a single State Party in order to give effect to the provisions of articles ...

RIGHTS AND OBLIGATIONS UNDER THE CONTRACT

9. (a) Any State Party, or any State enterprise or person natural or juridical which possesses the nationality of a State Party or is effectively controlled by it or by its nationals, when sponsored by a State Party or any group of the foregoing which enters into a contract for activities relating to evaluation and exploitation with the Authority pursuant to paragraph 5 (hereinafter called the "Contractor") shall, except as otherwise agreed by the Authority, be required to use its own funds, materials, equipment, skills and know-how as necessary for the conduct of operations covered by the contract, and to post a bond by way of guarantee of satisfactory performance under the contract.

(b) The costs involved in the performance of the contract pursuant to paragraph (a) shall be recoverable by the respective parties out of the proceeds of operations. The Authority shall in its rules and regulations establish a schedule pursuant to which such costs will be recovered in the manner specified in sub-paragraph (d) of this paragraph.

(c) The proceeds of operations pursuant to the contract after deduction of costs, which shall be calculated according to accounting principles to be determined by the Authority and the terms of the contract, shall be apportioned between the Authority and the Contractor in the manner specified in the contract in accordance with sub-paragraph (d) of this paragraph.

(d) [Financial arrangements]

10. The Contractor shall:

(a) Transfer in accordance with the rules and regulations and the terms and conditions of the contract to the Authority at time intervals determined by the Authority all data necessary and relevant to the effective implementation of the powers and functions of the organs of the Authority under this Convention in respect of the contract area. The Authority shall not disclose to third parties, without the prior consent of the Contractor, such of the transferred data as is deemed to be proprietary by the Contractor. Data which is necessary for the promulgation of rules and regulations concerning protection of the marine environment shall not be deemed to be proprietary. Except as otherwise agreed with the Authority the Contractor shall not be obliged to disclose proprietary equipment design data.

A/CONF.62/WP.8/Part I
Annex I
page 6

(b) Draw up programmes for the training of personnel, and take all such other action as may be necessary to fulfil its obligations pursuant to paragraph 8(b).

11. The Authority shall, pursuant to this Convention and the rules and regulations prescribed by the Authority, accord the Contractor the exclusive right to evaluate and/or exploit the contract area in respect of a specified category of minerals and shall ensure that no other entity operates in the same contract area for a different category of minerals in a manner which might interfere with the operations of the Contractor. The Contractor shall have security of tenure. Accordingly, the contract shall not be cancelled, modified, suspended or terminated, nor shall the exercise of any right under it be impaired, except for gross and persistent violations of the provisions of this Part and the rules and regulations adopted by the Authority thereunder, and after recourse to procedures provided under this Part for the settlement of any dispute that may have arisen. The Authority shall not, during the continuance of a contract, permit any entity to carry out activities in the same area for the same category of minerals.

RULES, REGULATIONS AND PROCEDURES

12. The Authority shall adopt and uniformly apply rules, regulations and procedures consistent with the purposes and fundamental principles of the functioning of the Authority and with these basic conditions in the following subjects

- (1) Applications to enter into contracts
- (2) Qualifications of applicants
- (3) Selection of applicants
- (4) Progress report
- (5) Submission of data
- (6) Application fees and bonds to secure satisfactory performance
- (7) Inspection and supervision of operations
- (8) Mining standards and practices including operational safety
- (9) Prevention of interference by the Contractor with other uses of the sea and of the marine environment
- (10) Apportionment of the proceeds of operations
- (11) Direct participation of personnel of developing countries, particularly the landlocked among them and of other countries lacking or less advanced in ocean mining and mineral processing technology, and the transfer of such technology to such countries

- (12) Passing of title to minerals and processed metals from the Area
- (13) Avoiding or minimizing adverse effects on the revenues of developing countries derived from exports of the minerals and products thereof from the Area
- (14) Transfer of rights by a Contractor
- (15) Activities in reserved areas
- (16) Financial and accounting rules

In respect of rules, regulations and procedures for the following subjects the Authority shall uniformly apply the objective criteria set out below:

- (17) Protection of the marine environment. The Authority shall take into account in adopting rules and regulations for the protection of the marine environment the extent to which activities in the Area such as drilling, dredging, coring and excavation as well as disposal, dumping and discharge in the Area of sediment or wastes and other matters will have a harmful effect on the marine environment.
- (18) Size of area. The Authority shall determine the appropriate size of areas for evaluation which may be up to twice as large as those for exploitation in order to permit intensive continued survey and evaluation operations. Areas for exploitation shall be calculated to satisfy the production requirements agreed between the Authority and the Contractor over the term of the contract taking into account the state of the art of technology then available for ocean mining and the relevant physical characteristics of the area. Areas shall neither be smaller nor larger than are necessary to satisfy this objective. In cases where the Contractor has obtained a contract for exploitation, the area not covered by such contract shall be relinquished to the Authority.
- (19) Duration of activities.
 - (a) General survey shall be without time limit except in the case of violations of the Authority's regulations to protect the environment in which case the Authority may prohibit the violator from conducting general survey operations for a reasonable period of time.

A/CONF.62/WP.8/Part I
Annex I
page 8

- (b) Evaluation should be of sufficient duration as to permit a thorough survey of the specific area, the design and construction of mining equipment for the area, the design and construction of small- and medium-size processing plants for the purpose of testing mining and processing systems.
 - (c) The duration of exploitation should be related to the economic life of the mining project taking into consideration such factors as the depletion of the ore body, the useful life of mining equipment and processing facilities, and commercial viability. Exploitation should be of sufficient duration as to permit commercial extraction of the minerals of the area and should include a reasonable time period for construction of commercial scale mining and processing systems during which period commercial production should not be required. The total duration of exploitation, however, should also be short enough to permit the Authority an opportunity to amend the terms and conditions of the contract at the time it considers renewal in accordance with rules and regulations which it has issued subsequent to entering into the contract.
- (20) Performance requirements. The Authority shall require that during the evaluation stage, periodic expenditures be made by the Contractor which are reasonably related to the size of the contract area and the expenditures which would be expected of a bona fide Contractor who intended to bring the area into full-scale commercial production within the time limits established by the Authority. Such required expenditures should not be established at a level which would discourage prospective operators with less costly technology than is prevalently in use. The Authority shall establish a maximum time interval after the evaluation stage is completed and the exploitation stage begins to achieve full-scale commercial production. To determine this interval, the Authority should take into consideration that construction of large-scale mining and processing systems cannot be initiated until after the termination of the evaluation stage and the commencement of the exploitation stage. Accordingly, the interval to bring an

area into full-scale commercial production should take into account the time necessary for this construction after the completion of the evaluation stage and reasonable allowance should be made for unavoidable delays in the construction schedule.

Once full-scale commercial production is achieved in the exploitation stage, the Authority shall within reasonable limits and taking into consideration all relevant factors require the Contractor to maintain a reasonable level of commercial production throughout the period of the contract.

- (21) Categories of minerals. In determining the category of mineral in respect of which a contract may be entered into, the Authority shall give emphasis inter alia to the following characteristics:

- (a) Resources which require the use of similar mining methods, and
- (b) Resources which can be developed simultaneously without undue interference between Contractors in the same area developing different resources.

Nothing in this paragraph shall deter the Authority from granting a contract for more than one category of mineral in the same contract area to the same applicant.

- (22) Renunciation of areas. The contractor shall have the right at any time to renounce without penalty the whole or part of his rights in the contract area. In such cases the renounced area shall be deemed to be a reserved area and disposed of in accordance with paragraph 19.

13. The Authority shall have the right to take at any time any measures provided for under this Convention to ensure compliance with its terms, and in the performance of the control and regulatory functions assigned to it thereunder or under any contract. The Authority shall have the right to inspect all facilities in the Area used in connexion with any activities in the Area.

SUSPENSION OR TERMINATION

14. A Contractor's rights in the contract area shall be suspended or terminated only if the Contractor has conducted his activities in such a way as to result in gross and persistent violations of this part and rules and regulations and were not caused by circumstances beyond his control, or if a Contractor has wilfully failed to comply with any decision of the [dispute settlement organ].

A/CONF.62/WP.8/Part I
Annex I
page 10

REVISION OF CONTRACT

15. [Circumstances under which terms and conditions (e.g. financial conditions) of contracts may be revised - to be drafted.]

FORCE MAJEURE

16. Non-performance or delay in performance shall be excused if and to the extent that such non-performance or delay is caused by force majeure. The party invoking force majeure may take appropriate measures including revision, suspension or termination of the contract; provided, however, that in the event of a dispute the parties shall first have recourse to the procedures for the settlement of disputes provided for in this Part.

TRANSFER OF RIGHTS

17. The rights and obligations arising out of a contract shall be transferred only with the consent of the Authority, and in accordance with the rules and regulations adopted by it. The Authority shall not withhold consent to the transfer if the proposed transferee is in all respects a qualified applicant, and assures all of the obligations of the transferor.

APPLICABLE LAW

18. The law applicable to the contract shall be solely the provisions of this Convention, the rules and regulations prescribed by the Authority, and the terms and conditions of the contract. The rights and obligations of the Authority and of the Contractor shall be valid and enforceable notwithstanding the law of any State, or any political subdivision thereof to the contrary. No contracting State may impose conditions on a Contractor that are inconsistent with the principles of this Convention.

LIABILITY

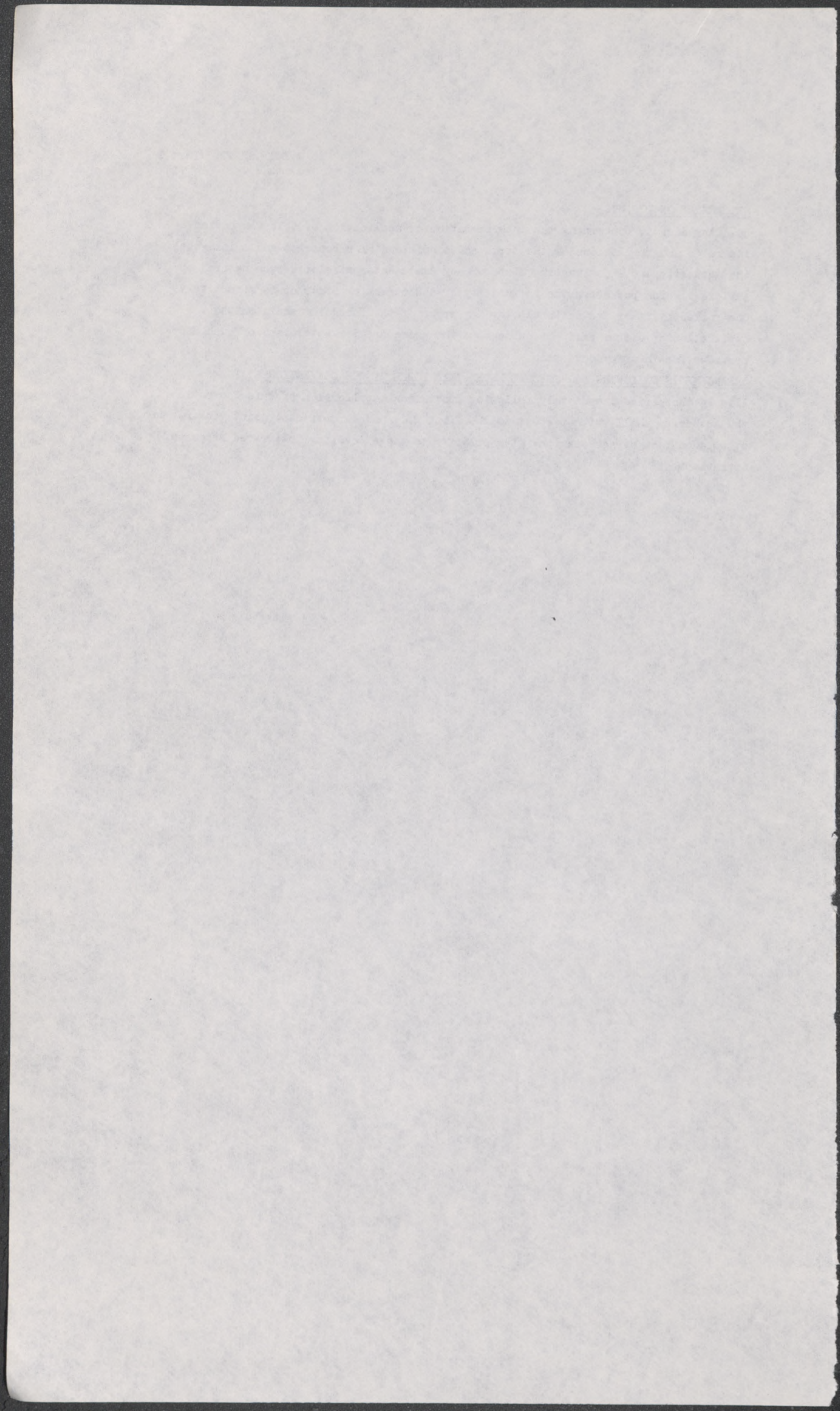
19. Responsibility or liability for wrongful damage arising out of the conduct of operations by the Contractor or the Authority shall lie with the Contractor or the Authority as the case may be. It shall be a defence in any proceeding against a Contractor or the Authority that the damage was the result of an act or omission of the Authority. Similarly, any responsibility or liability for wrongful damage arising out of the exercise of the powers and functions of the Authority shall lie with the Authority. It shall be a defence in any proceeding against the Authority that the damage was a result of an act or omission of the Contractor. Liability in every case shall be for the actual amount of damage.

SETTLEMENT OF DISPUTES

20. Any dispute concerning the interpretation or application of this Convention, its rules and regulations or the terms and conditions of a contract and arising between the Authority and a Contracting State or any State enterprise or person natural or juridical which possesses the nationality of a Contracting State or is effectively controlled by it or its nationals, or any group of the foregoing shall on the application of either party be subject to the procedure for settlement of such disputes provided for in this Convention.

ARRANGEMENTS FOLLOWING PROVISIONAL ENTRY INTO FORCE OF THE CONVENTION

21. In the period immediately following provisional application of this Convention, the Authority shall, with respect to the first [...] such contracts, joint ventures or other such form of association, give priority to those covering integrated stages of operations.





UNITED NATIONS



THIRD CONFERENCE
ON THE LAW OF THE SEA



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INFORMAL SINGLE NEGOTIATING TEXT

PART II

TEXT PRESENTED BY THE CHAIRMAN OF THE SECOND COMMITTEE

Note by the President of the Conference

At its 55th plenary meeting on Friday 18 April 1975, the Conference decided to request the Chairmen of its three Main Committees each to prepare a single negotiating text covering the subjects entrusted to his Committee. In his concluding statement, before the Conference made this request, the President stressed that the single text should take account of all the formal and informal discussions held so far, would be informal in character and would not prejudice the position of any delegation nor would it represent any negotiated text or accepted compromise. It should, therefore, be quite clear that the single negotiating text will serve as a procedural device and only provide a basis for negotiation. It must not in any way be regarded as affecting either the status of proposals already made by delegations or the right of delegations to submit amendments or new proposals.

(67)

A/CONF.62/WP.8/Part II
page 2

INTRODUCTION

The Conference at its 55th meeting on 18 April 1975 adopted a proposal by the President that the chairmen of the three main committees should each prepare a single negotiating text covering the subjects entrusted to his committee, taking account of all formal and informal discussions and proposals. The President emphasized that the text would be a basis for negotiation, rather than a negotiated text or accepted compromise, and would not prejudice the position of any delegation.

In the preparation of the present text, covering the subjects allocated to the Second Committee, account was taken of the documents before the Conference and the official and unofficial consultations held during the current session.

The particular nature of this text did not allow the retention of all the trends reflected in document A/CONF.62/C.2/WP.1 and in other proposals submitted either to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction or to the Conference. The aim of the Conference in adopting the new method for the future stage of its work would have been defeated had all trends been retained in this text. It was possible to amalgamate some of the alternative formulations but in other cases it was necessary to choose between conflicting proposals. In certain cases, a middle course was adopted.

The justification for the task entrusted to me is to be found in the particular nature of the single negotiating text as defined by the President and in the need to have a working instrument on the basis of which the process of negotiations can be intensified. I have endeavoured to accomplish this task to the best of my ability and express the hope that it will fulfil the purposes for which it was requested by the Conference.

It should be noted that the Third Committee is dealing with both scientific research and the prevention and control of pollution and other hazards to the marine environment in a wider context.

The present text does not necessarily represent the views of my delegation. I have prepared it in my capacity as an officer of the Conference and not as representative of my country.

Reynaldo Galindo Pohl
Chairman, Second Committee

CONTENTS

	<u>page</u>
<u>INTRODUCTION</u>	2
<u>PART I. THE TERRITORIAL SEA AND THE CONTIGUOUS ZONE</u>	5
SECTION 1. GENERAL	5
Article 1	5
SECTION 2. LIMITS OF THE TERRITORIAL SEA	5
Articles 2 - 13	5- 7
SECTION 3. INNOCENT PASSAGE IN THE TERRITORIAL SEA	8
<u>Subsection A. Rules applicable to all ships</u>	8
Articles 14 - 23	8-11
<u>Subsection B. Rules applicable to merchant ships</u>	11
Articles 24 - 26	11-12
<u>Subsection C. Rules applicable to government ships</u>	13
(1) Government ships other than warships	13
Articles 27 - 28	13
(2) Warships	13
Articles 29 - 31	13
(3) State responsibility for government ships	13
Article 32	13
SECTION 4. CONTIGUOUS ZONE	14
Article 33	14
<u>PART II. STRAITS USED FOR INTERNATIONAL NAVIGATION</u>	15
SECTION 1. GENERAL	15
Articles 34 - 36	15
SECTION 2. TRANSIT PASSAGE	15
Articles 37 - 43	15-18
SECTION 3. INNOCENT PASSAGE	18
Article 44	18
<u>PART III. THE EXCLUSIVE ECONOMIC ZONE</u>	19
Articles 45 - 61	19-26
<u>PART IV. THE CONTINENTAL SHELF</u>	27
Articles 62 - 72	27-29

A/CONF.62/WP.8/Part II
page 4

<u>PART V. THE HIGH SEAS</u>	<u>page</u>
SECTION 1. GENERAL	30
Articles 73 - 102	30
SECTION 2. MANAGEMENT AND CONSERVATION OF THE LIVING RESOURCES OF THE HIGH SEAS	30-37
Articles 103 - 107	38
	38-39
<u>PART VI. LAND-LOCKED STATES</u>	40
Articles 108 - 116	40-41
<u>PART VII. ARCHIPELAGOS</u>	42
SECTION 1. ARCHIPELAGIC STATES	42
Articles 117 - 130	42-46
SECTION 2. OCEANIC ARCHIPELAGOS BELONGING TO CONTINENTAL STATES	46
Article 131	46
<u>PART VIII. REGIME OF ISLANDS</u>	47
Article 132	47
<u>PART IX. ENCLOSED AND SEMI-ENCLOSED SEAS</u>	48
Articles 133 - 135	48
<u>PART X. TERRITORIES UNDER FOREIGN OCCUPATION OR COLONIAL DOMINATION</u>	49
Article 136	49
<u>PART XI. SETTLEMENT OF DISPUTES</u>	50
Article 137	50
<u>ANNEX</u>	

PART I. THE TERRITORIAL SEA AND THE CONTIGUOUS ZONE

SECTION 1. GENERAL

Article 1

1. The sovereignty of a coastal State extends beyond its land territory and internal waters, and in the case of an archipelagic State, its archipelagic waters, over an adjacent belt of sea described as the territorial sea.
2. This sovereignty extends to the air space over the territorial sea as well as to its bed and subsoil.
3. The sovereignty over the territorial sea is exercised subject to the provisions of these articles and to other rules of international law.

SECTION 2. LIMITS OF THE TERRITORIAL SEA

Article 2

Every State shall have the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines drawn in accordance with the provisions of the present Convention.

Article 3

The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea.

Article 4

Except where otherwise provided in these articles, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State.

Article 5

In the case of islands situated on atolls or of islands having fringing reefs, the baseline for measuring the breadth of the territorial sea shall be the seaward edge of the reef, as shown by the appropriate symbol on official charts.

Article 6

1. In localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured. Where because of the presence of a delta or other natural conditions the coastline is highly unstable, the appropriate points may be selected along the furthest seaward extent of the low-water line and, notwithstanding subsequent regression of the low-water line, such baselines shall remain effective until changed by the coastal State in accordance with the present Convention.

A/CONF.62/WP.8/Part II
page 6

2. A coastal State may employ the method of mixed baselines, i.e. drawing the baseline in turn by the methods provided for in article 4 and this article to suit different conditions.
3. The drawing of such baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the régime of internal waters.
4. Straight baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them or except in instances where the drawing of baselines to and from such elevations has received general international recognition.
5. Where the method of straight baselines is applicable under the provisions of paragraph 1 account may be taken, in determining particular baselines, of economic interests peculiar to the region concerned, the reality and the importance of which are clearly evidenced by a long usage.
6. The system of straight baselines may not be applied by a State in such a manner as to cut off from the high seas or the exclusive economic zone the territorial sea of another State.
7. The coastal State must clearly indicate straight baselines on charts, supplemented by a list of geographical coordinates of points, deposited with the Secretary-General of the United Nations who shall give due publicity thereto.

Article 7

1. Except as provided in Part VII, waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State.
2. Where the establishment of a straight baseline in accordance with article 6 has the effect of enclosing as internal waters areas which previously had been considered as part of the territorial sea, of the exclusive economic zone or of the high seas, a right of innocent passage, as provided in these articles shall exist in those waters.

Article 8

If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-tide line of its banks. The coastal State must clearly indicate these baselines on large-scale charts deposited with the Secretary-General of the United Nations, who shall give due publicity thereto.

Article 9

1. This article relates only to bays the coasts of which belong to a single State.
2. For the purposes of these articles a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain landlocked waters and constitute more than a mere curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.

3. For the purpose of measurement, the area of an indentation is that lying between the low-water mark around the shore of the indentation and a line joining the low-water mark of its natural entrance points. Where, because of the presence of islands, an indentation has more than one mouth, the semi-circle shall be drawn on a line as long as the sum total of the lengths of the lines across the different mouths. Islands within an indentation shall be included as if they were part of the water area of the indentation.

4. If the distance between the low-water marks of the natural entrance points of a bay does not exceed twenty-four miles a closing line may be drawn between these two low-water marks, and the waters enclosed thereby shall be considered as internal waters.

5. Where the distance between the low-water marks of the natural entrance points of a bay exceeds twenty-four miles a straight baseline of twenty-four miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

6. The foregoing provisions shall not apply to so-called "historic" bays, or in any case where the straight baseline system provided for in article 6 is applied.

Article 10

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system shall be regarded as forming part of the coast. Offshore installations and artificial islands shall not be considered as permanent harbour works.

Article 11

Roadsteads which are normally used for the loading, unloading, and anchoring of ships, and which would otherwise be situated wholly or partly outside the outer limit of the territorial sea, are included in the territorial sea. The coastal State must clearly demarcate such roadsteads and indicate them on charts together with their boundaries, to which due publicity must be given.

Article 12

1. A low-tide elevation is a naturally formed area of land which is surrounded by and above water at low-tide but submerged at high tide. Where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the mainland or an island, the low-water line on that elevation may be used as the baseline for measuring the breadth of the territorial sea.

2. Where a low-tide elevation is wholly situated at a distance exceeding the breadth of the territorial sea from the mainland or an island, it has no territorial sea of its own.

Article 13

1. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each

A/CONF.62/WP.8/Part II
page 8

of the two States is measured. The provisions of this paragraph shall not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance with this provision.

2. The line of delimitation between the territorial seas of two States lying opposite to each other or adjacent to each other shall be marked on large-scale charts officially recognized by the coastal States.

SECTION 3. INNOCENT PASSAGE IN THE TERRITORIAL SEA

Subsection A. Rules applicable to all ships

Article 14

Subject to the provisions of these articles, ships of all States, whether coastal or not, shall enjoy the right of innocent passage through the territorial sea.

Article 15

1. Passage means navigation through the territorial sea for the purpose of:

- (a) traversing that sea without entering internal waters or calling at a roadstead or port facility outside internal waters; or
- (b) proceeding to or from internal waters or a call at such a roadstead or port facility.

2. Innocent passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by force majeure or by distress or for the purposes of rendering assistance to persons, ships or aircraft in danger or distress. Passage shall otherwise be continuous and expeditious.

Article 16

1. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with these articles and with other rules of international law.

2. Passage of a foreign ship shall be considered to be prejudicial to the peace, good order or security of the coastal State, if in the territorial sea it engages in any of the following activities:

- (a) any threat or use of force against the territorial integrity or political independence of the coastal State or in any other manner in violation of the Charter of the United Nations;
- (b) any exercise or practice with weapons of any kind;
- (c) any act aimed at collecting information to the prejudice of the defence or security of the coastal State;
- (d) any act of propaganda aimed at affecting the defence or security of the coastal State;

- (e) the launching, landing, or taking on board of any aircraft;
- (f) the launching, landing or taking on board of any military device;
- (g) the embarking or disembarking of any commodity, currency or person contrary to the customs, fiscal or sanitary regulations of the coastal State;
- (h) any act of wilful pollution, contrary to the provisions of the present Convention;
- (i) the carrying on of research or survey activities of any kind;
- (j) any act aimed at interfering with any systems of communication of the coastal or any other State;
- (k) any act aimed at interfering with any other facilities or installations of the coastal State;
- (l) any other activity not having a direct bearing on passage.

3. The provisions of paragraph 2 shall not apply to any activities carried out with the prior authorization of the coastal State or in the case of any of the activities referred to in sub-paragraphs(e) to (l), as are rendered necessary by force majeure or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress. In such cases the foreign ship shall, as appropriate, inform the authorities of the coastal State as promptly as possible of the action taken.

4. Passage of foreign fishing vessels shall not be considered innocent if they do not observe such laws and regulations as the coastal State may make and publish in order to prevent these vessels from fishing in the territorial sea.

Article 17

Submarines and other underwater vehicles are required to navigate on the surface and to show their flag, unless otherwise authorized by the coastal State.

Article 18

1. The coastal State may make laws and regulations, in conformity with the provisions of the present Convention and other rules of international law, relating to innocent passage through the territorial sea, in respect of all or any of the following:

- (a) the safety of navigation and the regulation of marine traffic, including the designation of sealanes and the establishment of traffic separation schemes;
- (b) the protection of navigational aids and facilities and other facilities or installations including those for the exploration and exploitation of the marine resources of the territorial sea and the sea-bed and subsoil thereof;
- (c) the protection of cables and pipelines;
- (d) the conservation of the living resources of the sea;
- (e) the prevention of infringement of the fisheries regulations of the coastal State, including, inter alia, those relating to the stowage of gear;

(f) the preservation of the environment of the coastal State and the prevention of pollution thereto;

(g) research of the marine environment and hydrographic surveys;

(h) the prevention of infringement of the customs, fiscal, immigration, quarantine or sanitary or phytosanitary regulations of the coastal State.

2. Such laws and regulations shall not apply to or affect the design, construction, manning or equipment of foreign ships or matters regulated by generally accepted international rules unless specifically authorized by such rules.

3. The coastal State shall give due publicity to all laws and regulations made by it under the provisions of this article.

4. Foreign ships exercising the right of innocent passage through the territorial sea shall comply with all such laws and regulations of the coastal State and shall at all times, and particularly when using sealanes and traffic separation schemes designated or prescribed by the coastal State under the provisions of these articles, comply with all generally accepted international regulations relating to the prevention of collisions at sea.

Article 19

1. A coastal State may, where it considers it necessary having regard to the density of traffic concentration, require foreign ships exercising the right of innocent passage through its territorial sea to use such sealanes and traffic separation schemes as may be designated or prescribed by the coastal State for the regulation of the passage of ships.

2. Tankers and ships carrying nuclear or other inherently dangerous or noxious substances or materials may be required to confine their passage to such sealanes.

3. A coastal State may from time to time, after giving due publicity thereto, modify the traffic separation schemes or substitute other sealanes for any sealanes previously designated by it under the provisions of this article.

4. In the designation of sealanes and the prescription of traffic separation schemes under the provisions of this article a coastal State shall take into account:

- (a) the recommendations of competent international organizations;
- (b) any channels customarily used for international navigation; and
- (c) the special characteristics of particular ships and channels.

5. The coastal State shall clearly demarcate all sealanes designated by it under the provisions of this article and indicate them on charts to which due publicity shall be given.

Article 20

Foreign nuclear-powered ships and ships transporting nuclear substances shall, when exercising the right of innocent passage through the territorial sea, carry documents and observe special precautionary measures established for such ships by international agreements.

Article 21

1. The coastal State shall not interrupt or hamper the innocent passage of foreign ships through the territorial sea and, in particular, in the application of these articles or of any laws or regulations made under the provisions of these articles, it shall not:

- (a) impose requirements on foreign ships which have the practical effect of denying or prejudicing the right of innocent passage; or
- (b) discriminate in form or in fact against the ships of any State or against ships carrying cargoes to, from or on behalf of any State.

2. The coastal State is required to give appropriate publicity to any dangers to navigation, of which it has knowledge, within its territorial sea.

Article 22

1. The coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent.

2. In the case of ships proceeding to internal waters or a call at a port facility outside internal waters, the coastal State shall also have the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to internal waters or such a call is subject.

3. The coastal State may, without discrimination amongst foreign ships, suspend temporarily in specified areas of its territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of its security. Such suspension shall take effect only after having been duly published.

Article 23

1. If a ship exercising the right of innocent passage through the territorial sea does not comply with the laws and regulations concerning navigation, it shall be liable for any damage caused to the coastal State, including its environment and any of its facilities, installations or other property or to any ships flying its flag.

2. If in the application of its laws and regulations, a coastal State acts in a manner contrary to the provisions of these articles and loss or damage results to any foreign ship exercising the right of innocent passage through the territorial sea, the coastal State shall compensate the owners of such ship for that loss or damage.

Subsection B. Rules applicable to merchant shipsArticle 24

1. No charge may be levied upon foreign ships by reason only of their passage through the territorial sea.

2. Charges may be levied upon a foreign ship passing through the territorial sea as payment only for specific services rendered to the ship. These charges shall be levied without discrimination.

Article 25

1. The criminal jurisdiction of the coastal State should not be exercised on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed on board the ship during its passage, save only in the following cases:
 - (a) if the consequences of the crime extend to the coastal State;
 - (b) if the crime is of a kind to disturb the peace of the country or the good order of the territorial sea;
 - (c) if the assistance of the local authorities has been requested by the captain of the ship or by the consular officer of the country whose flag the ship flies; or
 - (d) if it is necessary for the suppression of illicit traffic in narcotic drugs and psychotropic substances.
2. The above provisions do not affect the right of the coastal State to take any steps authorized by its laws for the purpose of an arrest or investigation on board a foreign ship passing through the territorial sea after leaving internal waters.
3. In the cases provided for in paragraphs 1 and 2, the coastal State shall, if the captain so requests, advise the consular officer of the flag State before taking any steps, and shall facilitate contact between such officer and the ship's crew. In cases of emergency this notification may be communicated while the measures are being taken.
4. In considering whether or how an arrest should be made, the local authorities shall pay due regard to the interests of navigation.
5. The coastal State may not take any steps on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed before the ship entered the territorial sea, if the ship, proceeding from a foreign port, is only passing through the territorial sea without entering internal waters.

Article 26

1. The coastal State should not stop or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.
2. The coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course or for the purpose of its voyage through the waters of the coastal State.
3. The provisions of the previous paragraph are without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest, for the purpose of any civil proceedings, a foreign ship lying in the territorial sea, or passing through the territorial sea after leaving internal waters.

Subsection C. Rules applicable to government ships

(1) Government ships other than warships

Article 27

The rules contained in subsections A and B shall apply to government ships operated for commercial purposes.

Article 28

1. The rules contained in subsection A and in article 24 shall apply to government ships operated for non-commercial purposes.
2. With such exceptions as are contained in the provisions referred to in the preceding paragraph, nothing in these articles affects the immunities which such ships enjoy under these articles or other rules of international law.

(2) Warships

Article 29

1. For the purposes of the present Convention, "warship" means a ship belonging to the armed forces of a State bearing the external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the Government of the State and whose name appears in the appropriate Service list or its equivalent, and manned by a crew who are under regular armed forces discipline.
2. The rules contained in subsection A shall apply to warships.

Article 30

If any warship does not comply with the laws and regulations of the coastal State relating to passage through the territorial sea and disregards any request for compliance which is made to it, the coastal State may require it to leave the territorial sea by such safe and expeditious route as may be directed by the coastal State.

Article 31

Subject to articles 29, 30 and 32, nothing in these provisions affects the immunities which warships enjoy under these provisions or other rules of international law.

(3) State responsibility for government ships

Article 32

If, as a result of any non-compliance by any warship or other government ship operated for non-commercial purposes with any of the laws or regulations of the coastal State relating to passage through the territorial sea or with any of the provisions of these articles or other rules of international law, any damage is caused to the coastal State, including its environment and any of its facilities, installations or other property, or to any ships flying its flag, international responsibility shall be borne by the flag State of the ship causing the damage.

SECTION 4. CONTIGUOUS ZONE

Article 33

1. In a zone contiguous to its territorial sea, described as the contiguous zone, the coastal State may exercise the control necessary to:

(a) prevent infringement of its customs, fiscal, immigration or sanitary regulations within its territory or territorial sea;

(b) punish infringement of the above regulations committed within its territory or territorial sea.

2. The contiguous zone may not extend beyond 24 nautical miles from the baseline from which the breadth of the territorial sea is measured.

PART II. STRAITS USED FOR INTERNATIONAL NAVIGATION

SECTION 1. GENERAL

Article 34

1. The régime of passage through straits used for international navigation established in this part shall not in other respects affect the status of the waters forming such straits nor the exercise by the strait State of its sovereignty or jurisdiction over such waters and their air space, bed and subsoil.
2. The sovereignty or jurisdiction of the strait State shall be exercised subject to the provisions of this Part and other rules of international law.
3. For the purposes of this part "strait State" means any State bordering a strait to which these articles apply.

Article 35

Nothing in this Part shall affect:

- (a) any areas of internal waters within a strait, unless they were considered as part of the high seas or territorial sea prior to the drawing of straight baselines in accordance with the rules provided for in Article 6;
- (b) the status of the waters beyond the territorial seas of strait States as exclusive economic zones or high seas; or
- (c) the legal status of straits in which passage is regulated in whole or in part by long-standing international conventions in force specifically relating to such straits.

Article 36

The provisions of this Part shall not apply to a strait used for international navigation if a high seas route or a route through an exclusive economic zone of similar convenience exists through the strait.

SECTION 2. TRANSIT PASSAGE

Article 37

The articles in this section apply to straits which are used for international navigation between one area of the high seas or an exclusive economic zone and another area of the high seas or an exclusive economic zone.

Article 38

1. In straits referred to in article 37, all ships and aircraft enjoy the right of transit passage, which shall not be impeded, except that if the strait is formed by an island of the strait State, transit passage shall not apply if a high seas route or a route in an exclusive economic zone of similar convenience exists seaward of the island.

A/CONF.62/WP.8/Part II
page 16

2. Transit passage is the exercise in accordance with the provisions of this Part of the freedom of navigation and overflight solely for the purpose of continuous and expeditious transit of the strait between one area of the high seas or an exclusive economic zone and another area of the high seas or an exclusive economic zone.
3. The right of transit passage recognized under this article may also be exercised for the purpose of transit to or from another strait State, subject to the conditions of entry to that State.
4. Any activity which is not an exercise of the right of transit passage through a strait remains subject to the other applicable provisions of the present Convention.

Article 39

1. Ships and aircraft, while exercising the right of transit passage shall:
 - (a) proceed without delay through the strait;
 - (b) refrain from any threat or use of force against the territorial integrity or political independence of a strait State or in any other manner in violation of the Charter of the United Nations;
 - (c) refrain from any activities other than those incident to their normal modes of continuous and expeditious transit unless rendered necessary by force majeure or by distress;
 - (d) comply with other relevant provisions of this Part.
2. Ships in transit shall:
 - (a) comply with generally accepted international regulations, procedures and practices for safety at sea, including the International Regulations for Preventing Collisions at Sea;
 - (b) comply with generally accepted international regulations, procedures and practices for the prevention and control of pollution from ships.
3. Aircraft in transit shall:
 - (a) observe Rules of the Air established by the International Civil Aviation Organization as they apply to civil aircraft; State aircraft will normally comply with such safety measures and will at all times operate with due regard for the safety of navigation;
 - (b) at all times monitor the radio frequency assigned by the appropriate internationally designated air traffic control authority or the appropriate international distress radio frequency.

Article 40

1. In conformity with this Part, a strait State may designate sealanes and prescribe traffic separation schemes for navigation in the strait where necessary to promote the safe passage of ships.

2. A strait State may, when circumstances require, and after giving due publicity thereto, substitute other sealanes or traffic separation schemes for any sealanes or traffic separation schemes previously designated or prescribed by it.
3. Such sealanes or traffic separation schemes shall conform with generally accepted international regulations referred.
4. Before designating sealanes or prescribing traffic separation schemes, a strait State shall refer proposals to the competent international organization with a view to their adoption. The organization may adopt only such sealanes and separation schemes as may be agreed with the strait State, after which the strait State may designate or prescribe them.
5. In respect of a strait where sealanes or such schemes are proposed through the waters of two or more strait States, the States concerned shall co-operate in formulating proposals in consultation with the organization.
6. The strait State shall clearly indicate all sealanes and separation schemes designated or prescribed by it on charts to which due publicity shall be given.
7. Ships in transit shall respect applicable sealanes and separation schemes established in accordance with this article.

Article 41

1. Subject to the provisions of this section, the strait State may make laws and regulations relating to transit passage through straits, in respect of all or any of the following:
 - (a) the safety of navigation and the regulation of marine traffic as provided in article 40;
 - (b) the prevention of pollution, giving effect to applicable international regulations regarding the discharge of oil, oily wastes and other noxious substances in the strait;
 - (c) with respect to fishing vessels, the prevention of fishing, including the stowage of fishing gear;
 - (d) the taking on board or putting overboard of any commodity, currency or person in contravention of the customs, fiscal, immigration or sanitary regulations of the strait State.
2. Such laws and regulations shall not discriminate in form or fact among foreign ships, nor in their application have the practical effect of denying, hampering or impairing the right of transit passage as defined in this Section.
3. The strait State shall give due publicity to all such laws and regulations.
4. Foreign ships exercising the right of transit passage shall comply with such laws and regulations of the strait State.
5. If a ship or aircraft entitled to sovereign immunity acts in a manner contrary to the provisions of this Part or laws and regulations adopted in accordance with paragraph 1 and loss or damage results to a strait State or other State in the vicinity of the strait, the flag State shall be responsible for that loss or damage.

A/CONF.62/WP.8/Part II
page 18

Article 42

User States and strait States should by agreement co-operate in the establishment and maintenance in a strait of necessary navigation and safety aids or other improvements in aid of international navigation or for the prevention and control of pollution from ships.

Article 43

A Strait State shall not hamper transit passage and shall give appropriate publicity to any danger to navigation or overflight within or over the strait of which it has knowledge. There shall be no suspension of transit passage.

SECTION 3. INNOCENT PASSAGE

Article 44

1. The régime of innocent passage, in accordance with section 3 of Part III, shall apply in straits used for international navigation between:

(a) one area of the high seas or an exclusive economic zone and another area of the high seas or an exclusive economic zone, other than those straits in which the régime of transit passage applies in accordance with section 2; or

(b) one area of the high seas or an exclusive economic zone and the territorial sea of a foreign State.

2. There shall be no suspension of innocent passage through such straits.

PART III: THE EXCLUSIVE ECONOMIC ZONEArticle 45

1. In an area beyond and adjacent to its territorial sea, described as the exclusive economic zone, the coastal State has:

(a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether renewable or non-renewable, of the bed and subsoil and the superjacent waters;

(b) exclusive rights and jurisdiction with regard to the establishment and use of artificial islands, installations and structures;

(c) exclusive jurisdiction with regard to:

(i) other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds; and

(ii) scientific research;

(d) jurisdiction with regard to the preservation of the marine environment, including pollution control and abatement;

(e) other rights and duties provided for in the present Convention.

2. In exercising its rights and performing its duties under the present Convention in the exclusive economic zone, the coastal State shall have due regard to the rights and duties of other States.

3. The rights set out in this article shall be without prejudice to the provisions of Part IV.

Article 46

The exclusive economic zone shall not extend beyond 200 nautical miles from the baseline from which the breadth of the territorial sea is measured.

Article 47

1. All States, whether coastal or land-locked, shall, subject to the relevant provisions of the present Convention, enjoy in the exclusive economic zone the freedoms of navigation and overflight and of the laying of submarine cables and pipelines and other internationally lawful uses of the sea related to navigation and communication.

2. The provisions of articles 74, 76 to 97 and 100 to 102 and other pertinent rules of international law shall apply to the exclusive economic zone in so far as they are not incompatible with the provisions of this Part.

3. In cases where the present Convention does not attribute rights or jurisdiction to the coastal State or to other States within the exclusive economic zone, and a conflict arises between the interests of the coastal State and any other State or States, the conflict should be resolved on the basis of equity and in the light of

all the relevant circumstances, taking into account the respective importance of the interests involved to the parties as well as to the international community as a whole.

4. In exercising their rights and performing their duties under the present Convention in the exclusive economic zone, States shall have due regard to the rights and duties of the coastal State and shall comply with the laws and regulations enacted by the coastal State in conformity with the provisions of this Part and other rules of international law.

Article 48

1. In the exclusive economic zone, the coastal State shall have the exclusive right to construct and to authorize and regulate the construction, operation and use of:

- (a) artificial islands;
- (b) installations and structures for the purposes provided for in article 45 and other economic purposes;
- (c) installations and structures which may interfere with the exercise of the rights of the coastal State in the zone.

2. The coastal State shall have exclusive jurisdiction over such artificial islands, installations and structures including jurisdiction with regard to customs, fiscal, health, safety and immigration regulations.

3. Due notice must be given of the construction of such artificial islands, installations or structures, and permanent means for giving warning of their presence must be maintained. Any installations or structures which are abandoned or disused must be entirely removed.

4. The coastal State may, where necessary, establish reasonable safety zones around such artificial islands, installations and structures in which it may take appropriate measures to ensure the safety both of navigation and of the artificial islands, installations and structures.

5. The breadth of the safety zones shall be determined by the coastal State, taking into account applicable international standards. Such zones shall be designed to ensure that they are reasonably related to the nature and function of the artificial islands, installations or structures, and shall not exceed a distance of 500 metres around them measured from each point of their outer edge, except as authorized by generally accepted international standards or as recommended by the appropriate international organizations.

6. Ships of all nationalities must respect these safety zones and shall comply with generally accepted international standards regarding navigation in the vicinity of artificial islands, installations, structures, and safety zones. Due notice shall be given of the extent of safety zones.

7. Artificial islands, installations and structures and the safety zones around them may not be established where interference may be caused to the use of recognized sealanes essential to international navigation.

8. Artificial islands, installations and structures shall have no territorial sea of their own and their presence does not affect the delimitation of the territorial sea or of other zones of coastal State jurisdiction or of the continental shelf.

Article 49

The consent of the coastal State shall be obtained in respect of any research concerning the exclusive economic zone and undertaken there. Nevertheless, the coastal State shall not normally withhold its consent if the request is submitted by a qualified institution with a view to purely scientific research, subject to the proviso that the coastal State shall have the right, if it so desires, to participate or to be represented in the research, and that the results shall be published after consultation with the coastal State concerned.

Article 50

1. The coastal State shall determine the allowable catch of the living resources in its exclusive economic zone.
2. The coastal State, taking into account the best evidence available to it, shall ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by over-exploitation. As appropriate, the coastal State and relevant subregional, regional and global organizations shall co-operate to this end.
3. Such measures shall also be designed to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the economic needs of coastal fishing communities and the special requirements of developing countries, and taking into account fishing patterns, the interdependence of stocks and any generally recommended subregional, regional or global minimum standards.
4. In establishing such measures the coastal State shall take into consideration the effects on species associated with or dependent upon harvested species with a view to maintaining or restoring populations of such associated or dependent species above levels at which their reproduction may become seriously threatened.
5. Available scientific information, catch and fishing efforts statistics, and other data relevant to the conservation of fish stocks shall be contributed and exchanged on a regular basis through subregional, regional and global organizations where appropriate and with participation by all States concerned, including States whose nationals are allowed to fish in the exclusive economic zone.

Article 51

1. The coastal State shall promote the objective of optimum utilization of the living resources in the exclusive economic zone without prejudice to the provisions of article 50.
2. The coastal State shall determine its capacity to harvest the living resources of the exclusive economic zone. Where the coastal State does not have the capacity to harvest the entire allowable catch, it shall, through agreements or other arrangements and pursuant to the terms, conditions and regulations referred to in paragraph 4, give other States access to the surplus of the allowable catch.
3. In granting access to other States to its exclusive economic zone under this article, the coastal State shall take into account all relevant factors, including, inter alia, the significance of the renewable resources of the area to the economy of

the coastal State concerned and its other national interests, the provisions of articles 57 and 58, the requirements of developing countries in the subregion or region in harvesting part of the surplus and the need to minimize economic dislocation in States whose nationals have habitually fished in the zone or which have made substantial efforts in research and identification of stocks.

4. Nationals of other States fishing in the exclusive economic zone shall comply with the conservation measures and with the other terms and conditions established in the regulations of the coastal State. These regulations shall be consistent with the provisions of the present Convention and may relate, inter alia, to the following:

(a) licensing of fishermen, fishing vessels and equipment, including payment of fees and other forms of remuneration, which, in the case of developing coastal States, may consist of adequate compensation in the field of financing, equipment and technology relating to the fishing industry;

(b) determining the species which may be caught, and fixing quotas of catch, whether in relation to particular stocks or groups of stocks or catch per vessel over a period of time or to the catch by nationals of any State during a specified period;

(c) regulating seasons and areas of fishing, the types, sizes and amount of gear, and the numbers, sizes and types of fishing vessels that may be used;

(d) fixing the age and size of fish and other species that may be caught;

(e) specifying information required of fishing vessels, including catch and efforts statistics and vessel position reports;

(f) requiring, under the authorization and control of the coastal State, the conduct of specified fisheries research programmes and regulating the conduct of such research, including the sampling of catches, disposition of samples and reporting of associated scientific data;

(g) the placing of observers or trainees on board such vessels by the coastal State;

(h) the landing of all or any part of the catch by such vessels in the ports of the coastal State;

(i) terms and conditions relating to joint ventures or other co-operative arrangements;

(j) requirements for training personnel and transfer of fisheries technology including enhancement of the coastal State's capability of undertaking fisheries research;

(k) enforcement procedures.

5. Coastal States shall give due notice of conservation and management regulations.

Article 52

1. Where the same stock or stocks of associated species occur within the exclusive economic zones of two or more coastal States, these States shall seek either directly or through appropriate subregional or regional organizations to agree upon the measures necessary to co-ordinate and ensure the conservation and development of such stocks without prejudice to the other provisions of this Part.

2. Where the same stock or stocks of associated species occur both within the exclusive economic zone and in an area beyond and adjacent to the zone, the coastal State and the States fishing for such stocks in the adjacent area shall seek either directly or through appropriate subregional or regional organizations to agree upon the measures necessary for the conservation of these stocks in the adjacent area.

Article 53

1. The provisions of paragraph 2 shall apply, in addition to the other provisions of this Part, to the regulation by the coastal State in its exclusive economic zone of fishing for the highly migratory species listed in the annex.

2. The coastal State and other States whose nationals fish highly migratory species in the region shall co-operate directly or through appropriate international organizations with a view to ensuring conservation and promoting the objective of optimum utilization of such species throughout the region, both within and beyond the exclusive economic zone. In regions where no appropriate international organization exists, the coastal State and other States whose nationals harvest these species in the region shall co-operate to establish such an organization and participate in its work.

3. Nothing in the present Convention shall restrict the right of a coastal State or international organization, as appropriate, to prohibit, regulate and limit the exploitation of marine mammals. States shall co-operate either directly or through appropriate international organizations with a view to the protection and management of marine mammals.

Article 54

1. Coastal States in whose rivers anadromous stocks originate shall have the primary interest in and responsibility for such stocks.

2. The State of origin of anadromous stocks shall ensure their conservation by the establishment of appropriate regulatory measures for fishing in all waters within its exclusive economic zone and for fishing provided for in paragraph 3 (b). The State of origin may, after consultation with other States fishing these stocks, establish total allowable catches for stocks originating in its rivers.

3. (a) Fisheries for anadromous stocks shall be conducted only in the waters within exclusive economic zones, except in cases where this provision would result in economic dislocation for a State other than the State of origin.

(b) The State of origin shall co-operate in minimizing economic dislocation in such other States fishing these stocks, taking into account the normal catch and the mode of operations of such States, and all the areas in which such fishing has occurred.

(c) States referred to in sub-paragraph (b), participating by agreement with the State of origin in measures to renew anadromous stocks, particularly by expenditures for that purpose, shall be given special consideration by the State of origin in the harvesting of stocks originating in its rivers.

(d) Enforcement of regulations regarding anadromous stocks beyond the exclusive economic zone shall be by agreement between the State of origin and the other States concerned.

A/CONF.62/WP.8/Part II
page 24

4. In cases where anadromous stocks migrate into or through the waters within the exclusive economic zone of a State other than the State of origin, such State shall co-operate with the State of origin with regard to the conservation and management of such stocks.

5. The State of origin of anadromous stocks and other States fishing these stocks shall make arrangements for the implementation of the provisions of this article, where appropriate, through regional organizations.

Article 55

1. A coastal State in whose waters catadromous species spend the greater part of their life cycle shall have responsibility for the management of these species and shall ensure the ingress and egress of migrating fish.

2. Harvesting of catadromous species shall be conducted only in waters in respect of which the State mentioned in paragraph 1 exercises sovereign rights over the living resources and, when conducted in the exclusive economic zone, shall be subject to the provisions of the present Convention concerning fishing in the zone.

3. In cases where catadromous fish migrate through the waters of another State or States, whether as juvenile or maturing fish, the management of such fish shall be regulated by agreement between the State mentioned in paragraph 1 and the State or States concerned. Such agreement shall ensure the rational management of the species and take into account the responsibilities of the State mentioned in paragraph 1 for the maintenance of these species.

Article 56

The provisions of this Part shall not apply to sedentary species as defined in article 63, paragraph 4.

Article 57

1. Land-locked States shall have the right to participate in the exploitation of the living resources of the exclusive economic zones of adjoining coastal States on an equitable basis, taking into account the relevant economic and geographic circumstances of all the States concerned. The terms and conditions of such participation shall be determined by the States concerned through bilateral, subregional or regional agreements. Developed land-locked States shall, however, be entitled to exercise their rights only within the exclusive economic zones of neighbouring developed coastal States.

2. The provisions of this article are without prejudice to the provisions of articles 50 and 51.

Article 58

1. Developing coastal States which are situated in a subregion or region whose geographical peculiarities make such States particularly dependent for the satisfaction of the nutritional needs of their populations upon the exploitation of the living resources in the economic zones of their neighbouring States and developing coastal States which can claim no exclusive economic zones of their own shall have the right to participate, on an equitable basis, in the exploitation of living resources in the exclusive economic zones of other States in a subregion or region.

2. The terms and conditions of such participation shall be determined by the States concerned through bilateral, subregional or regional agreements, taking into account the relevant economic and geographic circumstances of all the States concerned, including the need to avoid effects detrimental to the fishing communities or to the fishing industries of the States in whose zones the right of participation is exercised.

3. The provisions of this article are without prejudice to the provisions of articles 50 and 51.

Article 59

Rights granted under the provisions of articles 57 and 58 to exploit living resources cannot without the express consent of the coastal State be transferred to third States or their nationals by lease or licence, by establishing joint collaboration ventures or by any other arrangements.

Article 60

1. The coastal State may, in the exercise of its sovereign rights to explore, exploit, conserve and manage the living resources in the exclusive economic zone, take such measures, including boarding, inspection, arrest and judicial proceedings, as may be necessary to ensure compliance with the laws and regulations enacted by it in conformity with the provisions of the present Convention.

2. Arrested vessels and their crew shall be promptly released upon the posting of reasonable bond or other security.

3. Coastal State penalties for violations of fisheries regulations in the exclusive economic zone may not include imprisonment, in the absence of agreement to the contrary by the States concerned, or any other form of corporal punishment.

4. In cases of arrest or detention of foreign vessels the coastal State shall promptly notify, through appropriate channels, the State of registry of the action taken and of any penalties subsequently imposed.

Article 61

1. The delimitation of the exclusive economic zone between adjacent or opposite States shall be effected by agreement in accordance with equitable principles, employing, where appropriate, the median or equidistance line, and taking account of all the relevant circumstances.

2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part ... (settlement of disputes).

3. Pending agreement, no State is entitled to extend its exclusive economic zone beyond the median line or the equidistance line.

4. For the purposes of this article, "median line" means the line every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

A/CONF.62/WP.8/Part II
page 26

5. In delimiting the boundaries of the exclusive economic zone, any lines which are drawn in accordance with the provisions of this article should be defined with reference to charts and geographical features as they exist at a particular date, and reference should be made to fixed permanent identifiable points on the land.

6. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the exclusive economic zone shall be determined in accordance with the provisions of that agreement.

PART IV. CONTINENTAL SHELFArticle 62

The continental shelf of a coastal State comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.

Article 63

1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.
2. The rights referred to in paragraph 1 are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities without the express consent of the coastal State.
3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.
4. The natural resources referred to in these articles consist of the mineral and other non-living resources of the sea-bed and subsoil together with living organisms belonging to sedentary species, that is to say, organism which, at the harvestable stage, either are immobile on or under the sea-bed or are unable to move except in constant physical contact with the sea-bed or the subsoil.

Article 64

The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters or the air space above those waters.

Article 65

1. All States shall be entitled to lay submarine cables and pipelines on the continental shelf.
2. Subject to its right to take reasonable measures for the exploration of the continental shelf, the exploitation of its natural resources and the prevention of pollution from pipelines, the coastal State may not impede the laying or maintenance of such cables or pipelines.
3. The delineation of the course for the laying of such pipelines on the continental shelf is subject to the consent of the coastal State.
4. Nothing in this Part shall affect the right of the coastal State to establish conditions for cables or pipelines entering its territory or territorial sea, or its jurisdiction over cables and pipelines constructed or used in connexion with the exploration of its continental shelf or exploitation of its resources or the operations of artificial islands, installations and structures under its jurisdiction.
5. When laying submarine cables or pipelines, States shall pay due regard to cables or pipelines already in position. In particular possibilities of repairing existing cables or pipelines shall not be prejudiced.

Article 66

The provisions of article 48 shall apply mutatis mutandis to artificial islands, installations and structures on the continental shelf.

Article 67

The coastal State shall have the exclusive right to authorize and regulate drilling on the continental shelf for all purposes.

Article 68

The coastal State shall, with respect to the artificial islands, installations and structures and sea-bed activities subject to its jurisdiction, take appropriate measures for the protection of the marine environment from pollution, and ensure compliance with appropriate minimum international requirements provided for in Part ... (preservation of the marine environment) and with other applicable international standards.

Article 69

1. The coastal State shall make payments or contributions in kind in respect of the exploitation of the non-living resources of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.
2. The rate of payment or contribution shall be x% of the value or volume of production at the site. Production does not include resources used in connexion with exploitation.
3. The International Authority shall determine the extent to which developing countries shall be obliged to make payments or contributions provided for in paragraphs 1 and 2.
4. The payments or contributions provided for in paragraphs 1 and 2 shall be made to the International Authority on terms and procedures to be agreed upon with the Authority in each case. The International Authority shall distribute these payments and contributions on the basis of equitable sharing criteria, taking into account the interests and needs of developing countries.

Article 70

1. The delimitation of the continental shelf between adjacent or opposite States shall be effected by agreement in accordance with equitable principles, employing, where appropriate, the median or equidistance line, and taking account of all the relevant circumstances.
2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part ... (settlement of disputes).
3. Pending agreement, no State is entitled to extend its exclusive economic zone beyond the median line or the equidistance line.

4. For the purposes of this article, "median line" means the line every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

5. In delimiting the boundaries of the continental shelf, any lines which are drawn in accordance with the provisions of this article should be defined with reference to charts and geographical features as they exist at a particular date, and reference should be made to fixed permanent identifiable points on the land.

6. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the exclusive economic zone shall be determined in accordance with the provisions of that agreement.

Article 71

The provisions of article 49 shall apply mutatis mutandis to research concerning the continental shelf and undertaken there.

Article 72

The provisions of this Part shall not prejudice the right of the coastal State to exploit the subsoil by means of tunnelling irrespective of the depth of water above the subsoil.

PART V. HIGH SEAS

SECTION 1. GENERAL

Article 73

The term "high seas" as used in the present Convention means all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State.

Article 74

The high seas shall be open to all States, whether coastal or landlocked, and their use shall be reserved for peaceful purposes.

Article 75

1. The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas is exercised under the conditions laid down by these articles and by other rules of international law. It comprises, inter alia, both for coastal and non-coastal States:

- (a) freedom of navigation;
- (b) freedom of overflight;
- (c) freedom to lay submarine cables and pipelines, subject to the provisions of Part IV;
- (d) freedom to construct artificial islands and other installations permitted under international law, subject to the provisions of Part IV;
- (e) freedom of fishing, subject to the conditions laid down in section 2;
- (f) freedom of scientific research, subject to the provisions of Parts IV and (scientific research).

2. These freedoms shall be exercised by all States, with due consideration for the interests of other States in their exercise of the freedom of the high seas.

Article 76

Every State, whether coastal or not, has the right to sail ships under its flag on the high seas.

Article 77

1. Each State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship.

2. Each State shall issue to ships to which it has granted the right to fly its flag documents to that effect.

Article 78

1. Ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in these articles, shall be subject to its exclusive jurisdiction on the high seas. A ship may not change its flag during a voyage or while in a port of call, save in the case of a real transfer of ownership or change of registry.
2. A ship which sails under the flags of two or more States, using them according to convenience, may not claim any of the nationalities in question with respect to any other State, and may be assimilated to a ship without nationality.

Article 79

The provisions of the preceding articles do not prejudice the question of ships employed on the official service of the United Nations, its specialized agencies or the International Atomic Energy Agency flying the flag of the organization.

Article 80

1. Every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.
2. In particular every State shall:
 - (a) maintain a register of shipping containing the names and particulars of ships flying its flag, except those which are excluded from generally accepted international regulations on account of their small size; and
 - (b) assume jurisdiction under its municipal law over each ship flying its flag and its master, officers and crew in respect of administrative, technical and social matters concerning the ship.
3. Every State shall take such measures for ships under its flag as are necessary to ensure safety at sea with regard, inter alia, to:
 - (a) the construction, equipment and seaworthiness of ships;
 - (b) the manning of ships, labour conditions and the training of crews, taking into account the applicable international labour instruments;
 - (c) the use of signals, the maintenance of communications and the prevention of collisions.
4. Such measures shall include those necessary to ensure:
 - (a) that each ship, before registration and thereafter at appropriate intervals, is surveyed by a qualified surveyor of ships, and has on board such charts, nautical publications and navigational equipment and instruments as are appropriate for the safe navigation of the ship;
 - (b) that each ship is in the charge of a master and officers who possess appropriate qualifications, in particular in seamanship, navigation, communications and marine engineering, and that the crew is appropriate in qualification and numbers for the type, size, machinery and equipment of the ship;

A/CONF.62/WP.8/Part II
page 32

(c) that the master, officers and, to the extent appropriate, the crew are fully conversant with and required to observe the applicable international regulations concerning the safety of life at sea, the prevention of collisions, the prevention and control of marine pollution, and the maintenance of communications by radio.

5. In taking the measures called for by paragraphs 3 and 4 each State is required to conform to generally accepted international regulations, procedures and practices and to take any steps which may be necessary to secure their observance.

6. A State which has clear grounds to believe that proper jurisdiction and control with respect to a ship have not been exercised may report the facts to the flag State. Upon receiving such a report, the flag State shall investigate the matter, and if appropriate, take any action necessary to remedy the situation.

7. Each State shall cause an inquiry to be held by or before a suitably qualified person or persons into every marine casualty or incident of navigation on the high seas involving a ship flying its flag and causing loss of life or serious injury to nationals of another State or serious damage to shipping or installations of another State or to the marine environment. The flag State and the other State shall co-operate in the conduct of any inquiry held by that other State into any such marine casualty or incident of navigation.

Article 81

Warships on the high seas have complete immunity from the jurisdiction of any State other than the flag State.

Article 82

Ships owned or operated by a State and used only on government non-commercial service shall, on the high seas, have complete immunity from the jurisdiction of any State other than the flag State.

Article 83

1. In the event of a collision or any other incident of navigation concerning a ship on the high seas, involving the penal or disciplinary responsibility of the master or of any other person in the service of the ship, no penal or disciplinary proceedings may be instituted against such persons except before the judicial or administrative authorities either of the flag State or of the State of which such person is a national.

2. In disciplinary matters, the State which has issued a master's certificate or a certificate of competence or licence shall alone be competent, after due legal process, to pronounce the withdrawal of such certificates, even if the holder is not a national of the State which issued them.

3. No arrest or detention of the ship, even as a measure of investigation, shall be ordered by any authorities other than those of the flag State.

Article 84

1. Every State shall require the master of a ship sailing under its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers:

(a) to render assistance to any person found at sea in danger of being lost;

(b) to proceed with all possible speed to the rescue of persons in distress if informed of their need of assistance, in so far as such action may reasonably be expected of him;

(c) after a collision, to render assistance to the other ship, its crew and its passengers and, where possible, to inform the other ship of the name of his own ship, its port of registry and the nearest port at which it will call.

2. Every coastal State shall promote the establishment, operation and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and, where circumstances so require, by way of mutual regional arrangements co-operate with neighbouring States for this purpose.

Article 85

Every State shall adopt effective measures to prevent and punish the transport of slaves in ships authorized to fly its flag, and to prevent the unlawful use of its flag for that purpose. Any slave taking refuge on board any ship, whatever its flag, shall, ipso facto, be free.

Article 86

All States shall co-operate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.

Article 87

Piracy consists of any of the following acts:

(a) any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

(i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;

(ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;

(b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;

(c) any act of inciting or of intentionally facilitating an act described in sub-paragraphs (a) and (b).

Article 88

The acts of piracy, as defined in article 87, committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship.

Article 89

A ship or aircraft is considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in article 87. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act.

Article 90

A ship or aircraft may retain its nationality although it has become a pirate ship or aircraft. The retention or loss of nationality is determined by the law of the State from which such nationality was derived.

Article 91

On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.

Article 92

Where the seizure of a ship or aircraft on suspicion of piracy has been effected without adequate grounds, the State making the seizure shall be liable to the State the nationality of which is possessed by the ship or aircraft, for any loss or damage caused by the seizure.

Article 93

A seizure on account of piracy may only be carried out by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

Article 94

1. All States shall co-operate in the suppression of illicit traffic in narcotic drugs and psychotropic substances by ships on the high seas contrary to international conventions.
2. Any State which has reasonable grounds for believing that a vessel flying its flag is engaged in illicit traffic in narcotic drugs and psychotropic substances, may request the co-operation of other States to suppress such traffic.

Article 95

1. All States shall co-operate in the suppression of unauthorized broadcasting from the high seas.
2. Any person engaged in unauthorized broadcasting from the high seas may be prosecuted before the court of the flag State of the vessel, the place of registry of the installation, the State of which the person is a national, any place where the transmissions can be received or any State where authorized radio communication is suffering interference.
3. On the high seas, a State having jurisdiction in accordance with paragraph 2 may, in conformity with article 96, arrest any person or ship engaged in unauthorized broadcasting and seize the broadcasting apparatus.
4. For the purpose of the present Convention, "unauthorized broadcasting" means the transmission of sound radio or television broadcasts from a ship or installation on the high seas intended for reception by the general public contrary to international regulations, but excluding the transmission of distress calls.

Article 96

1. Except where acts of interference derive from powers conferred by treaty, a warship which encounters on the high seas a foreign ship, other than a ship entitled to complete immunity in accordance with articles 81 and 82, is not justified in boarding her unless there is reasonable ground for suspecting:
 - (a) that the ship is engaged in piracy;
 - (b) that the ship is engaged in the slave trade;
 - (c) that, subject to article 95, the ship is engaged in unauthorized broadcasting;
 - (d) that the ship is without nationality; or
 - (e) that, though flying a foreign flag or refusing to show its flag, the ship is, in reality, of the same nationality as the warship.
2. In the cases provided for in paragraph 1, the warship may proceed to verify the ship's right to fly its flag. To this end, it may send a boat under the command of an officer to the suspected ship. If suspicion remains after the documents have been checked, it may proceed to a further examination on board the ship, which must be carried out with all possible consideration.
3. If the suspicions prove to be unfounded, and provided that the ship boarded has not committed any act justifying them, it shall be compensated for any loss or damage that may have been sustained.
4. These provisions shall apply mutatis mutandis to military aircraft.
5. These provisions shall also apply to any other duly authorized ships or aircraft clearly marked and identifiable as being on government service.

Article 97

1. The hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State. Such pursuit must be commenced when the foreign ship or one of its boats is within the internal waters or the territorial sea or the contiguous zone of the pursuing State, and may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted. It is not necessary that, at the time when the foreign ship within the territorial sea or the contiguous zone receives the order to stop, the ship giving the order should likewise be within the territorial sea or the contiguous zone. If the foreign ship is within a contiguous zone, as defined in article 33, the pursuit may only be undertaken if there has been a violation of the rights for the protection of which the zone was established.
2. The right of hot pursuit shall apply mutatis mutandis to violations in the exclusive economic zone or on the continental shelf, including safety zones around continental shelf installations, of the laws and regulations of the coastal State applicable in accordance with the present Convention to the exclusive economic zone or the continental shelf, including such safety zones.
3. The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own country or of a third State.
4. Hot pursuit is not deemed to have begun unless the pursuing ship has satisfied itself by such practicable means as may be available that the ship pursued or one of its boats or other craft working as a team and using the ship pursued as a mother ship are within the limits of the territorial sea, or as the case may be within the contiguous zone or the exclusive economic zone or above the continental shelf. The pursuit may only be commenced after a visual or auditory signal to stop has been given at a distance which enables it to be seen or heard by the foreign ship.
5. The right of hot pursuit may be exercised only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and specially authorized to that effect.
6. Where hot pursuit is effected by an aircraft:
 - (a) the provisions of paragraphs 1 to 4 shall apply mutatis mutandis;
 - (b) the aircraft giving the order to stop must itself actively pursue the ship until a ship or aircraft of the coastal State, summoned by the aircraft, arrives to take over the pursuit, unless the aircraft is itself able to arrest the ship. It does not suffice to justify an arrest outside the territorial sea that the ship was merely sighted by the aircraft as an offender or suspected offender, if it was not both ordered to stop and pursued by the aircraft itself or other aircraft or ships which continue the pursuit without interruption.
7. The release of a ship arrested within the jurisdiction of a State and escorted to a port of that State for the purposes of an inquiry before the competent authorities may not be claimed solely on the ground that the ship, in the course of its voyage, was escorted across a portion of the exclusive economic zone or the high seas, if the circumstances rendered this necessary.

8. Where a ship has been stopped or arrested outside the territorial sea in circumstances which do not justify the exercise of the rights of hot pursuit, it shall be compensated for any loss or damage that may have been thereby sustained.

Article 98

Every State shall comply with the provisions of Part ... (preservation of the marine environment).

Article 99

1. All States shall be entitled to lay submarine cables and pipelines on the bed of the high seas beyond the continental shelf.
2. The provisions of article 65, paragraph 5, shall apply to such cables and pipelines.

Article 100

Every State shall take the necessary legislative measures to provide that the breaking or injury by a ship flying its flag or by a person subject to its jurisdiction of a submarine cable beneath the high seas done wilfully or through culpable negligence, in such a manner as to be liable to interrupt or obstruct telegraphic or telephonic communications, and similarly the breaking or injury of a submarine pipeline or high-voltage power cable shall be a punishable offence. This provision shall apply also to conduct calculated or likely to result in such breaking or injury. However, it shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or their ships, after having taken all necessary precautions to avoid such break or injury.

Article 101

Every State shall take the necessary legislative measures to provide that, if persons subject to its jurisdiction who are the owners of a cable or pipeline beneath the high seas, in laying or repairing that cable or pipeline, cause a break in or injury to another cable or pipeline, they shall bear the cost of the repairs.

Article 102

Every State shall take the necessary legislative measures to ensure that the owners of ships who can prove that they have sacrificed an anchor, a net or any other fishing gear, in order to avoid injuring a submarine cable or pipeline, shall be indemnified by the owner of the cable or pipeline, provided that the owner of the ship has taken all reasonable precautionary measures beforehand.

SECTION 2. MANAGEMENT AND CONSERVATION OF THE LIVING RESOURCES

Article 103

All States have the right for their nationals to engage in fishing on the high seas subject to:

- (a) their treaty obligations;
- (b) ~~the~~ rights and duties as well as the interests of coastal States provided for, inter alia, in article 52, paragraph 2, and articles 53 and 54; and
- (c) the provisions of this section.

Article 104

All States have the duty to adopt, or to co-operate with other States in adopting, such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas.

Article 105

States shall co-operate with each other in the management and conservation of living resources in the areas of the high seas. States whose nationals exploit identical resources, or different resources in the same area, shall enter into negotiations with a view to adopting the means necessary for the conservation of the living resources concerned. They shall, as appropriate, co-operate to establish subregional or regional fisheries organizations to this end.

Article 106

1. In determining the allowable catch and establishing other conservation measures for the living resources in the high seas, States shall:

(a) adopt measures which are designed, on the best evidence available to the States concerned, to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing countries, and taking into account fishing patterns, the interdependence of stocks and any generally recommended subregional, regional or global minimum standards;

(b) take into consideration the effects on species associated with or dependent upon harvested species with a view to maintaining or restoring populations of such associated or dependent species above levels at which their reproduction may become seriously threatened.

2. Available scientific information, catch and fishing statistics, and other data relevant to the conservation of fish stocks shall be contributed and exchanged on a regular basis through subregional, regional and global organizations where appropriate and with participation by all States concerned.
3. States concerned shall ensure that conservation measures and their implementation do not discriminate in form or in fact against the fishermen of any State.

Article 107

The provisions of article 53, paragraph 3 shall also apply to the conservation and management of marine mammals in the high seas.

PART VI. LAND-LOCKED STATESArticle 108

1. For the purposes of the present Convention:

- (a) "land-locked State" means a State which has no seacoast;
- (b) "transit State" means a State, with or without a seacoast, situated between a land-locked State and the sea through whose territory "traffic in transit" passes;
- (c) "traffic in transit" means transit of persons, baggage, goods and means of transport across the territory of one or more transit States, when the passage across such territory, with or without trans-shipment, warehousing, breaking bulk or change in the mode of transport is only a portion of a complete journey which begins or terminates within the territory of the land-locked State;
- (d) "means of transport" means:
 - (i) railway rolling stock, sea and river craft and road vehicles;
 - (ii) where local conditions so require, porters and pack animals.

2. Land-locked States and transit States may, by agreement between them, include as means of transport pipelines and gas lines and means of transport other than those included in paragraph 2.

Article 109

1. Land-locked States shall have the right of access to and from the sea for the purpose of exercising the rights provided for in the present Convention including those relating to the freedom of the high seas and the principle of the common heritage of mankind. To this end, land-locked States shall enjoy freedom of transit through the territories of transit States by all means of transport.
2. The terms and conditions for exercising freedom of transit shall be agreed between the land-locked States and the transit States concerned through bilateral, subregional or regional agreements, in accordance with the provisions of the present Convention.
3. Transit States, in the exercise of their full sovereignty over their territory, shall have the right to take all measures to ensure that the rights provided for in this Part for land-locked States shall in no way infringe their legitimate interests.

Article 110

Provisions of the present Convention, as well as special agreements which regulate the exercise of the right of access to and from the sea, establishing rights and facilities on account of the special geographical position of land-locked States, are excluded from the application of the most-favoured-nation clause.

Article 111

1. Traffic in transit shall not be subject to any customs duties, taxes or other charges except charges levied for specific services rendered in connexion with such traffic.
2. Means of transport in transit used by land-locked States shall not be subject to taxes, tariffs or charges higher than those levied for the use of means of transport of the transit State.

Article 112

For the convenience of traffic in transit, free zones or other customs facilities may be provided at the ports of entry and exit in the transit States, by agreement between those States and the land-locked States.

Article 113

Where there are no means of transport in the transit States to give effect to the freedom of transit or where the existing means, including the port installations and equipment, are inadequate in any respect, transit States may request the land-locked States concerned to co-operate in constructing or improving them.

Article 114

1. Except in cases of force majeure all measures shall be taken by transit States to avoid delays in or restrictions on traffic in transit.
2. Should delays or other difficulties occur in traffic in transit, the competent authorities of the transit State or States and of land-locked States shall co-operate towards their expeditious elimination.

Article 115

Ships flying the flag of land-locked States shall enjoy treatment equal to that accorded to other foreign ships in maritime ports.

Article 116

Land-locked States may, in accordance with the provisions of Part III, participate in the exploitation of the living resources of the exclusive economic zone of adjoining coastal States.

PART VII. ARCHIPELAGOS

SECTION 1. ARCHIPELAGIC STATES

Article 117

1. The provisions of this section shall apply to archipelagic States.
2. For the purposes of the present Convention:
 - (a) "archipelagic State" means a State constituted wholly by one or more archipelagos and may include other islands;

(b) an "archipelago" means a group of islands, including parts of islands, inter-connecting waters and other natural features which are so closely interrelated that such islands, waters and other natural features form an intrinsic geographic, economic and political entity, or which historically have been regarded as such.

Article 118

1. An archipelagic State may draw straight baselines joining the outermost points of the outermost islands and drying reefs of the archipelago provided that such baselines enclose the main islands and an area in which the ratio of the area of the water to the area of the land, including atolls, is between one-to-one and nine-to-one.
2. The length of such baselines shall not exceed 80 nautical miles, except that up to ... per cent of the total number of baselines enclosing any archipelago may exceed that length, up to a maximum length of 125 nautical miles.
3. The drawing of such baselines shall not depart to any appreciable extent from the general configuration of the archipelago.
4. Baselines shall not be drawn to and from low-tide elevations unless lighthouses or similar installations which are permanently above sea level have been built on them or where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the nearest island.
5. The system of straight baselines shall not be applied by an archipelagic State in such a manner as to cut off from the high seas or the exclusive economic zone the territorial sea of another State.
6. The archipelagic State shall clearly indicate its straight baselines on large-scale charts, deposited with the Secretary-General of the United Nations, who shall give due publicity thereto.
7. If the drawing of such baselines encloses a part of the sea which has traditionally been used by an immediately adjacent neighbouring State for direct access and all forms of communication, including the laying of submarine cables and pipelines, between two or more parts of the territory of such State, the archipelagic State shall continue to recognize and guarantee such rights of direct access and communication.
8. For the purposes of computing the ratio of water to land under paragraph 1, land areas may include waters lying within the fringing reefs of islands and atolls, including that part of a steep-sided oceanic plateau which is enclosed or nearly enclosed by a chain of limestone islands and drying reefs lying on the perimeter of the plateau.

Article 119

The breadth of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf shall be measured from the baselines drawn in accordance with article 118.

Article 120

1. The sovereignty of an archipelagic State extends to the waters enclosed by the baselines, described as archipelagic waters, regardless of their depth or distance from the coast.
2. This sovereignty extends to the air space over the archipelagic waters, the bed and subsoil thereof, and the resources contained therein.
3. This sovereignty is exercised subject to the provisions of this section.

Article 121

Within its archipelagic waters, the archipelagic State may draw closing lines for the delimitation of internal waters, in accordance with articles 8, 9 and 10.

Article 122

Archipelagic States shall respect existing agreements with other States and shall recognize traditional fishing rights of the immediately adjacent neighbouring States in certain areas of the archipelagic waters. The terms and conditions of the exercise of such rights, including the extent of such rights and the areas to which they apply, shall, at the request of any of the States concerned, be regulated by bilateral agreements between them. Such rights shall not be transferred to or shared with third States or their nationals.

Article 123

1. Subject to the provisions of article 124, ships of all States, whether coastal or not, shall enjoy the right of innocent passage through archipelagic waters, in accordance with the provisions of section 3 of Part I.
2. The archipelagic State may, without discrimination in form or in fact amongst foreign ships, suspend temporarily in specified areas of its archipelagic waters the innocent passage of foreign ships if such suspension is essential for the protection of its security. Such suspension shall take effect after having been duly published.

Article 124

1. An archipelagic State may designate sealanes and air routes suitable for the safe, continuous and expeditious passage of foreign ships and aircraft through its archipelagic waters.
2. Ships and aircraft of all States, whether coastal or not, shall have the right of archipelagic sealanes passage in sealanes and air routes through the archipelago.

A/CONF.62/WP.8/Part II
page 44

3. Archipelagic sealanes passage is the exercise in accordance with the provisions of the present Convention of the rights of navigation and overflight in the normal mode for the purpose of continuous and expeditious transit through an archipelago between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone.
4. Such sealanes and air routes shall traverse the archipelago and the adjacent territorial sea and shall include all normal passage routes used as routes for international navigation or overflight through the archipelago, and, within such routes, so far as ships are concerned, all normal navigational channels, provided that duplication of routes of similar convenience between the same entry and exit points shall not be necessary.
5. The width of a sealane shall not be less than ... nautical miles or ... per cent of the distance between the nearest points on islands bordering the sealane.
6. An archipelagic State which designates sealanes under the provisions of this article may also prescribe traffic separation schemes for the safe passage of ships through narrow channels in such sealanes.
7. An archipelagic State may, when circumstances require, after giving due publicity thereto, substitute other sealanes or traffic separation schemes for any sealanes or traffic separation schemes previously designated or prescribed by it.
8. Such sealanes or traffic separation schemes shall conform to generally accepted international regulations.
9. Before designating sealanes or prescribing traffic separation schemes, an archipelagic State shall refer proposals to the competent international organization with a view to their adoption. The organization may adopt only such sealanes and traffic separation schemes as may be agreed with the archipelagic State, after which the archipelagic State may designate or prescribe them.
10. The archipelagic State shall clearly indicate all sealanes and traffic separation schemes designated or prescribed by it on charts to which due publicity shall be given.
11. Ships in transit shall respect applicable sealanes and traffic separation schemes established in accordance with this article.
12. If an archipelagic State does not designate sealanes, the right of archipelagic sealanes passage may be exercised through the routes normally used for international navigation through the archipelagic waters.

Article 125

1. Ships and aircraft, while exercising the right of archipelagic sealanes passage shall:
 - (a) proceed without delay through the designated sealanes;
 - (b) refrain from any threat or use of force against the territorial integrity or political independence of the archipelagic State or in any other manner in violation of the Charter of the United Nations;

(c) refrain from any activities other than those incident to their normal modes of continuous and expeditious transit unless rendered necessary by force majeure or by distress;

(d) comply with other relevant provisions of this section.

2. Ships in transit shall:

(a) comply with generally accepted international regulations, procedures and practices for safety at sea, including the International Regulations for Preventing Collisions at Sea;

(b) comply with generally accepted international regulations, procedures and practices for the prevention and control of pollution from ships.

3. Aircraft in transit shall:

(a) observe Rules of the Air established by the International Civil Aviation Organization under the Chicago Convention as they apply to civil aircraft; State aircraft will normally comply with such safety measures and will at all times operate with due regard for the safety of navigation;

(b) at all times monitor the radio frequency assigned by the appropriate internationally designated air traffic control authority or the appropriate international distress radio frequency.

Article 126

An archipelagic State shall not hamper archipelagic searoutes passage and shall give appropriate publicity to any danger to navigation or overflight within the designated searoutes or air routes of which it has knowledge. There shall be no suspension of archipelagic searoutes passage.

Article 127

During their passage through archipelagic waters, foreign ships, including marine research and hydrographic survey ships, may not carry out any research or survey activities without the prior authorization of the archipelagic State.

Article 128

1. Subject to the provisions of this section, the archipelagic State may make laws and regulations relating to archipelagic searoutes passage through archipelagos in respect of all or any of the following:

(a) the safety of navigation and the regulation of marine traffic as provided in article 124;

(b) the prevention of pollution, giving effect to the applicable international regulations regarding the discharge of oil, oily wastes and other substances in the archipelagic waters;

(c) with respect to fishing vessels, the prevention of fishing, including the stowage of fishing gear;

A/CONF.62/WP.8/Part II
page 46

(d) the taking on board or putting overboard of any commodity, currency or person in contravention of the customs, fiscal, immigration or sanitary regulations of the archipelagic State.

2. Such laws and regulations shall not discriminate in form or fact amongst foreign ships, nor in their application have the practical effect of denying, hampering or impairing the right of archipelagic searoutes passage as defined in this section.

3. The archipelagic State shall give due publicity to all such laws and regulations.

4. Foreign ships exercising the right of archipelagic searoutes passage shall comply with such laws and regulations of the archipelagic State.

Article 129

If a ship or aircraft entitled to sovereign immunity acts in a manner contrary to the provisions of this section or laws and regulations adopted in accordance with paragraph 1 of article 128 and loss or damage results to an archipelagic State or other States in its vicinity, the flag State shall be responsible for that loss or damage.

Article 130

The provisions of this section are without prejudice to the provisions of article 6.

SECTION 2. OCEANIC ARCHIPELAGOS BELONGING TO CONTINENTAL STATES

Article 131

The provisions of section 1 are without prejudice to the status of oceanic archipelagos forming an integral part of the territory of a continental State.

PART VIII. REGIME OF ISLANDSArticle 132

1. An island is a naturally formed area of land, surrounded by water, which is above water at high tide.
2. Except as provided for in paragraph 3, the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of the present Convention applicable to other land territory.
3. Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.

PART IX. ENCLOSED AND SEMI-ENCLOSED SEAS

Article 133

For the purposes of this Part, the term "enclosed or semi-enclosed sea" means a gulf, basin, or sea surrounding two or more States and connected to the open seas by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive economic zones of two or more coastal States.

Article 134

States bordering enclosed or semi-enclosed seas shall co-operate with each other in the exercise of their rights and duties under the present Convention. To this end they shall, directly or through an appropriate regional organization:

- (a) co-ordinate the management, conservation, exploration and exploitation of the living resources of the sea;
- (b) co-ordinate the implementation of their rights and duties with respect to the preservation of the marine environment;
- (c) co-ordinate their scientific research policies and undertake where appropriate joint programmes of scientific research in the area;
- (d) invite, as appropriate, other interested States or international organizations to co-operate with them in furtherance of the provisions of this article.

Article 135

The provisions of this Part shall not affect the rights and duties of coastal or other States under other provisions of the present Convention, and shall be applied in a manner consistent with those provisions.

PART X. TERRITORIES UNDER FOREIGN OCCUPATION OR
COLONIAL DOMINATIONArticle 136

1. The rights recognized or established by the present Convention to the resources of a territory whose people have not attained either full independence or some other self-governing status recognized by the United Nations or a territory under foreign occupation or colonial domination or a United Nations Trust Territory or a territory administered by the United Nations shall be vested in the inhabitants of that territory, to be exercised by them for their own benefit and in accordance with their own needs and requirements.
2. Where a dispute over the sovereignty of a territory under foreign occupation or colonial domination exists, the rights referred to in paragraph 1 shall not be exercised until such dispute is settled in accordance with the purposes and principles of the Charter of the United Nations.
3. In no case may the rights referred to in paragraph 1 be exercised, profited or benefited from or in any way infringed by a metropolitan or foreign power administering or occupying such territory or purporting to administer or occupy such territory.
4. References in this article to a territory include continental and insular territories.

PART XI. SETTLEMENT OF DISPUTESArticle 137

Disputes arising out of the interpretation or application of articles shall be resolved in accordance with the provisions of Part of the present Convention.

ANNEX

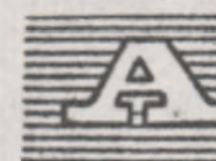
HIGHLY MIGRATORY SPECIES

1. Albacore Tuna
2. Bluefin Tunas
3. Bugeye Tuna
4. Skipjack Tunas
5. Yellowfin Tuna
6. Blackfin Tuna
7. Little Tuna
8. Frigate Mackerels
9. Pomfrets
10. Marlin
11. Sailfishes
12. Swordfish
13. Sauries
14. Dolphin (fish)
15. Oceanic Sharks
16. Cetaceans (whales and porpoises)



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THIRD CONFERENCE
ON THE LAW OF THE SEA



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INFORMAL SINGLE NEGOTIATING TEXT

PART III

TEXT PRESENTED BY THE CHAIRMAN OF THE THIRD COMMITTEE

Note by the President of the Conference

At its 55th plenary meeting on Friday 18 April 1975 the Conference decided to request the Chairmen of its three Main Committees each to prepare a single negotiating text covering the subjects entrusted to his Committee. In his concluding statement, before the Conference made this request, the President stressed that the single text should take account of all the formal and informal discussions held so far, would be informal in character and would not prejudice the position of any delegation nor would it represent any negotiated text or accepted compromise. It should, therefore, be quite clear that the single negotiating text will serve as a procedural device and only provide a basis for negotiation. It must not in any way be regarded as affecting either the status of proposals already made by delegations or the right of delegations to submit amendments or new proposals.

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PART ...

PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT

CHAPTER ONE

GENERAL PROVISIONS

Article 1

"Pollution of the marine environment" means: the introduction by man, directly or indirectly, of substances or energy in the marine environment (including estuaries) resulting in such deleterious effects as harm to living resources, hazards to human health, hindrance to marine activities including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities.*/

Article 2

States have the obligation to protect and preserve all the marine environment.

Article 3

States have the sovereign right to exploit their natural resources pursuant to their environmental policies and they shall, in accordance with their duty to protect and preserve the marine environment, take into account their economic needs and their programmes for economic development.

Article 4

1. States shall take all necessary measures consistent with this Convention to prevent, reduce and control pollution of the marine environment from any source using for this purpose the best practicable means at their disposal and in accordance with their capabilities, individually or jointly, as appropriate, and they shall endeavour to harmonize their policies in this connexion.

*/ A provision containing a definition of marine pollution could be embodied in a special introductory chapter of this Convention, together with all other definitions.

2. States shall take all necessary measures to ensure that marine pollution does not spread outside their national jurisdiction and that activities under their jurisdiction or control are so conducted that they do not cause damage by pollution to other States and their environment, nor cause pollution beyond the areas where States exercise sovereign rights in accordance with this Convention.

3. The measures taken pursuant to these articles shall deal with all sources whatsoever of pollution of the marine environment. These measures shall include, inter alia, those designed to minimize to the fullest possible extent:

(a) Release of toxic, harmful and noxious substances, especially those which are persistent:

- (i) from land-based sources;
- (ii) from or through the atmosphere;
- (iii) by dumping.

(b) Pollution from vessels, in particular for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, preventing intentional and unintentional discharges, and regulating the design, construction, equipment, operation and manning of vessels.

(c) Pollution from installations and devices used in the exploration or exploitation of the natural resources of the sea-bed and subsoil, in particular for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, and regulating the design, construction, equipment, operation and manning of such installations or devices.

(d) Pollution from all other installations and devices operating in the marine environment, in particular for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, and regulating the design, construction, equipment, operation and manning of such installations or devices.

4. In taking measures to prevent pollution of the marine environment States shall have due regard to the legitimate uses of the marine environment, which are not incompatible with the provisions of this Convention and shall refrain from unjustifiable interference with such uses.

Article 5

In taking measures to prevent or control marine pollution, States shall guard against the effect of merely transferring, directly or indirectly, damage or hazards from one area to another or from one type of pollution to another.

CHAPTER TWO

GLOBAL AND REGIONAL CO-OPERATION

Article 6

States shall co-operate on a global basis and as appropriate on a regional basis, directly or through competent international organizations, global or regional, to formulate and elaborate international rules, standards and recommended practices and procedures consistent with this Convention, for the prevention of marine pollution, taking into account characteristic regional features.

Article 7

A State which becomes aware of cases in which the marine environment is in imminent danger of being damaged or has been damaged by pollution shall immediately notify other States it deems likely to be affected by such damage, as well as the competent international organizations.

Article 8

In the cases referred to in Article 7, States in the area affected, in accordance with their capabilities, and the competent international organizations, shall co-operate, to the extent possible, in eliminating the effects of pollution and preventing or minimizing the damage. Towards that end, States shall jointly promote and develop contingency plans for responding to pollution incidents in the marine environment.

Article 9

States shall co-operate directly or through competent international organizations for the purpose of promoting studies, undertaking programmes of scientific research and encouraging the exchange of information and data acquired about pollution of the marine environment. They shall endeavour to participate actively in regional and international programmes to acquire knowledge for the assessment of the nature and extent of pollution and the pathways and risks of, exposures to and the remedies for pollution.

Article 10

In the light of the information and data acquired pursuant to Article 9, States shall co-operate directly or through competent international organizations in working out appropriate scientific criteria for the formulation and elaboration of rules, standards and recommended practices and procedures for the prevention of marine pollution.

CHAPTER THREE

TECHNICAL ASSISTANCE

Article 11

1. States shall directly or through competent international or regional organizations:

(a) promote programmes of scientific, educational, technical and other assistance to developing countries for the preservation of the marine environment and the prevention of marine pollution. Such assistance shall include, inter alia,

- (i) training of scientific and technical personnel;
- (ii) facilitation of their participation in relevant international programmes;
- (iii) supply of necessary equipment and facilities;
- (iv) enhancing the capacity of developing countries to manufacture such equipment;
- (v) development of facilities for and advice on research, monitoring, educational and other programmes.

(b) provide appropriate assistance, in particular to developing countries, for the minimization of the effects of major incidents which may cause serious pollution in the marine environment.

(c) provide appropriate assistance in particular to developing countries concerning the preparation of environmental assessments.

Article 12

Developing States shall, for purposes of the prevention of marine pollution or the minimization of its effects, be granted preference in:

(a) the allocation of appropriate funds and technical assistance facilities of international organizations, and

(b) the utilization of their specialized services.

CHAPTER FOUR

MONITORING

Article 13

1. States shall, consistent with the rights of other States endeavour, as much as is practicable individually or collectively through the competent international organizations to observe, measure, evaluate and analyse, by recognized methods the risks or effects of pollution of the marine environment.

2. In particular, States shall keep under surveillance the effect of any activities which they permit or in which they engage to determine whether these activities are likely to pollute the marine environment.

Article 14

States shall provide at appropriate intervals reports of the results obtained relating to risks or effects of pollution of the marine environment to United Nations Environment Programme or any other competent international or regional organizations, which should make them available to all States.

CHAPTER FIVE

ENVIRONMENTAL ASSESSMENT

Article 15

When States have reasonable grounds for expecting that planned activities under their jurisdiction or control may cause substantial pollution of the marine environment, they shall, as far as practicable, assess the potential effects of such activities on the marine environment and shall communicate reports of the results of such assessments in the manner provided in paragraph 2 of article 13.

CHAPTER SIX

STANDARDS

Article 16

1. States shall establish national laws and regulations to prevent, reduce and control pollution of the marine environment from land-based sources including rivers, estuaries, pipelines and outfall structures, taking into account internationally agreed rules, standards and recommended practices and procedures.

States shall also take such other measures as may be necessary to prevent, reduce and control pollution of the marine environment from land-based sources.

2. States shall endeavour to harmonize their national policies at the appropriate regional level.

3. States, acting in particular through the appropriate intergovernmental organizations or by diplomatic conference, shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control pollution of the marine environment from land-based sources, taking into account characteristic regional features, the economic capacity of developing countries and their need for economic development.

4. Laws, regulations, measures, rules, standards and recommended practices and procedures referred to in paragraphs 1 and 3 respectively shall include those designed to minimize to the fullest possible extent the release of toxic, harmful and noxious substances, especially persistent substances, into the marine environment.

Article 17

1. Coastal States shall establish national laws and regulations to prevent, reduce and control pollution of the marine environment arising from activities concerning exploration and exploitation of the sea bed and from installations under their jurisdiction, pursuant to Chapter Four of this Convention.

States shall also take any other measures as may be necessary to prevent, reduce and control such pollution.

Such laws, regulations and measures shall be no less effective than generally accepted international rules, standards and recommended practices and procedures.

2. States shall endeavour to harmonize their national policies at the appropriate regional level.

3. States, acting in particular through the appropriate intergovernmental organizations or by diplomatic conference, shall establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control pollution of the marine environment arising in connexion with sea-bed activities and installations mentioned in paragraph 1 above.

Article 18

The provisions referring to measures to prevent, reduce and control pollution of the marine environment from activities concerning exploration and exploitation of the international sea-bed area are contained in Chapter _____ of this Convention.

Article 19

1. States shall establish national laws and regulations to prevent, reduce and control pollution of the marine environment from dumping */ of wastes and other matter.

States shall also take such other measures as may be necessary to prevent, reduce and control such pollution.

Such laws, regulations and measures shall ensure that dumping is not carried out without the permission of the competent authorities of States.

2. States, acting in particular through the competent intergovernmental organizations or by diplomatic conference, shall endeavour to establish as soon as possible and to the extent that they are not already in existence, global and regional rules, standards and recommended practices and procedures to prevent, reduce and control pollution of the marine environment by dumping of wastes and other matter.

3. Dumping of wastes and other matter, within _____ shall not be carried out without the express approval of the coastal State, which has the exclusive right to permit, regulate and control such dumping.

4. National laws, regulations and measures shall be no less effective in preventing, reducing and controlling pollution from dumping than global rules and standards.

Article 20

1. States, acting through the competent international organization or by general diplomatic conference, shall establish as soon as possible and to the extent that they are not already in existence, international rules and standards for the prevention, reduction and control of pollution of the marine environment from vessels.

2. States shall establish effective laws and regulations for the prevention, reduction and control of pollution of the marine environment from vessels flying their flag. The requirements of such laws and regulations shall be no less effective than generally accepted international rules and standards referred to in paragraph 1.

*/ The definition of dumping of wastes and other matter may be included in a special introductory chapter of this Convention together with all other definitions.

3. The coastal State may establish, in respect of the territorial sea, more effective laws and regulations for the prevention, reduction and control of marine pollution from vessels. In establishing such laws and regulations the coastal State shall, consistent with the aim of achieving maximum possible uniformity of rules and standards governing international navigation, conform to the international rules and standards referred to in paragraph 1 of this Article. Such laws and regulations must not have the practical effect of hampering innocent passage through the territorial sea.
4. Where internationally agreed rules and standards are not in existence or are inadequate to meet special circumstances and where the coastal State has reasonable grounds for believing that a particular area of the economic zone is an area where, for recognized technical reasons in relation to its oceanographical and ecological conditions its utilization, and the particular character of its traffic, the adoption of special mandatory measures for the prevention of pollution from vessels is required, the coastal State may apply to the competent international organization for the area to be recognized as a "special area". Any such application shall be supported by scientific and technical evidence and shall, where appropriate, include plans for establishing sufficient and suitable land-based reception facilities.
5. Nothing in this Article shall be deemed to affect the establishment by the coastal State of appropriate non-discriminatory laws and regulations for the protection of the marine environment in areas within the economic zone, where particularly severe climatic conditions create obstructions or exceptional hazards to navigation, and where pollution of the marine environment, according to accepted scientific criteria, could cause major harm to or irreversible disturbance of the ecological balance.
6. Laws and regulations established pursuant to the internationally agreed rules and standards referred to in paragraph 4 of this Article, shall not become applicable in relation to foreign vessels until six months after they have been notified to the competent international organization.

Article 21

1. States shall establish national laws and regulations and shall take measures to prevent, reduce and control pollution of the marine environment from the atmosphere, taking into account internationally agreed rules, standards and recommended practices and procedures.
2. States shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control marine pollution from atmospheric sources.

CHAPTER SEVEN

ENFORCEMENT

Article 22

States shall have the right to enforce laws and regulations adopted in accordance with the provisions of this Convention for the protection and preservation of the marine environment from land-based sources of marine pollution.

Article 23

States shall have the right to enforce laws and regulations adopted in accordance with the provisions of this Convention for the protection and preservation of the marine environment from pollution arising from activities concerning exploration and exploitation of the continental shelf as provided for in this Convention.

Article 24

The international authority as referred to in Chapter of this Convention shall enforce, in co-operation with the flag States, the rules and standards adopted in accordance with the provisions of this Convention for the protection and preservation of the marine environment from pollution arising from activities concerning exploration and exploitation of the international sea bed area.

Article 25

Laws and regulations adopted in accordance with the provisions of this Convention for the protection and preservation of the marine environment from dumping at sea shall be enforced:

- (a) by any State within its territory;
- (b) by the flag State with regard to vessels and aircraft registered in its territory or flying its flag;
- (c) by the coastal State on vessels and aircraft engaged in dumping within its economic zone and continental shelf;
- (d) by the port State on vessels and aircraft loading at its facilities or off-shore terminals.

Article 26

1. States shall ensure compliance with international rules and standards referred to in Article 20 for the preservation of marine environment by vessels flying their flag or of their registry, and shall provide for the effective enforcement of such rules and standards irrespective of where the violations may have occurred.
2. A flag State shall, at the documented request of any State, investigate any violation alleged to have been committed by its vessels. If satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, the flag State shall cause such proceedings to be taken as soon as possible, in accordance with its laws. The flag State shall promptly inform the requesting State of the action taken and of its outcome.
3. The penalties specified under the flag State's legislation for its own vessels shall be adequate in severity to discourage violations and equally severe regardless of where the violations occurred.

Article 27

1. When a State has reasonable grounds for believing that a vessel irrespective of its flag or State of registration, which is voluntarily within one of its ports or at one of the offshore terminals, has violated the international rules and standards regardless of where the violation occurred, it must:

- (a) undertake an immediate and thorough investigation of the violation;
- (b) provide immediate notification of the results of the investigation to the flag State concerned and any States affected by the alleged violation.

2. The coastal State may prevent this vessel from sailing if it presents an excessive danger to the marine environment: it may however authorize it to leave the port or terminal to go to the nearest appropriate shipyard for repairs.

3. When a coastal State has reasonable grounds for believing that a vessel irrespective of its registration, which is voluntarily within one of its ports or at one of its offshore terminals, has released a discharge in the area extending to miles from the baseline from which the territorial sea is measured which constitutes a violation of the international rules and standards, it may, subject to the provisions of Article 28, institute proceedings according to its laws and, if necessary, arrest the vessel.

Article 28

1. A coastal State may apply the measures contained in Article 27 when a vessel, passing through the territorial sea, irrespective of its flag or State of registration, has violated the international rules and standards referred to in Article 20, paragraphs 1 and 2.

2. A coastal State may apply the measures contained in Article 27 at the request of another State when a vessel, irrespective of its flag or State of registration has violated the international rules and standards referred to in Article 20 paragraphs 1 and 2, by releasing a discharge in the area extending to miles from the baseline from where the territorial sea of the requesting State is measured if such State is party to the Convention containing these international rules and standards alleged to be violated.

3. When a coastal State arrests a ship, or when it receives a request from another State in accordance with paragraph 1, it must immediately notify the flag State of these facts, furnishing a report and all other relevant information.

4. The report drawn up by the competent authorities of the coastal State concerned shall be forwarded to the flag State.

5. Proceedings in respect of any violation other than arresting a vessel shall not be instituted by the coastal State until the expiry of six months from the date of notification to the flag State in accordance with paragraph 2 of this Article, and at any time after the expiry of that period if the flag State has previously commenced proceedings and has not discontinued those proceedings.

6. Proceedings in respect of the violation shall not be instituted by the coastal State after the expiry of three years from the date of the violation.

7. Proceedings taken by the coastal State shall not prevent the flag State from exercising its own competence.

8. Proceedings in respect of the violation may not be instituted by another State if such proceedings in respect of the same violation have already been initiated by the flag State pursuant to the provisions of this Article.

9. Only monetary penalties may be imposed by a coastal State in respect of any such violation.

Article 29

When a coastal State arrests a vessel or institutes proceedings pursuant to paragraph 3 of Article 27, it shall immediately release the vessel if the owner or his representative deposits a bond or other reasonable security which may not exceed the maximum penalty stipulated for the violation. The vessel shall not be released if it cannot proceed to sea without presenting an excessive danger to the marine environment. However, the coastal State may permit the vessel to leave the port or offshore terminal in order to proceed to the nearest repair yard available.

Article 30

1. When a coastal State has reasonable grounds for believing that a vessel, regardless of its flag or State of registration, has violated the international rules and standards by releasing discharges in the area extending to _____ miles from the baseline from which the territorial sea is measured, that State requires the vessel to give information by radio or other means of communication.

This information shall concern:

- (i) identification of the vessel and its port of registration,
- (ii) its last and next ports of call,
- (iii) and any other information required to be given by the relevant international regulation, being information which will make it possible to establish whether the suspected violation has been committed.

2. The information referred to in the preceding paragraph may only be required if the vessel is in the area extending to _____ miles from the baseline from which the territorial sea is measured.

Article 31

When there are reasonable grounds for believing that the vessel navigating through an area extending to _____ miles from the baseline from which the territorial sea of the coastal State is measured, has discharged in violation of international rules and standards, the vessel may be required to stop and may be boarded for inspection, provided that -

(a) the violation has been of flagrant character causing severe damage or threat of severe damage to the marine environment, or the vessel is proceeding to or from the internal waters of the coastal State;

(b) any such inspection shall be limited to an examination of such certificates and records as the vessel is required to carry by the relevant international regulation or of any similar documents which it is carrying;

(c) a physical inspection of the vessel may thereafter be carried out only if that is necessary to confirm the suspected violation.

A/CONF.62/WP.8/Part III
page 12

Article 32

When a coastal State exercises the rights referred to in Articles 30 and 31 it shall promptly notify the flag State of the suspected violation and of the respective measures which have been taken.

Article 33

The rights conferred on the coastal State by Articles 27 to 32 may be exercised only by officials or agents having the authority to establish that a violation has been committed.

Article 34

When taking measures against a foreign vessel pursuant to Articles 27 to 32, the State in question will immediately inform the consular or diplomatic representative of the flag State of the vessel against which the measures were taken.

Article 35

A vessel may be detained only by virtue of a court order of the State having jurisdiction. The vessel must be immediately released if the person responsible pays the fine imposed.

If as a result of an arrest the coastal State decides that it is necessary to detain the vessel, it must be taken to a safe and convenient place of anchorage.

Article 36

The coastal State may exercise the powers provided for in Article 35 only to the extent that there is no excessive danger to the vessel in question and that no unreasonable risks are created for navigation or the marine environment.

Article 37

The coastal State must provide for recourse in its courts in respect of loss or damage resulting from the inspection, the enquiry or application of measures taken pursuant to Articles 27 to 36 where they exceed those which were reasonably necessary in view of existing information.

Article 38

In the exercise of its rights and duties under this Chapter, a State shall not discriminate in form or in fact against foreign vessels.

Article 39

Nothing in Chapters six and seven shall ~~affect the legal régime~~ of straits used for international navigation.

Article 40

States shall have the right to enforce laws and regulations adopted in accordance with the provisions of this Convention for the protection and preservation of the marine environment from atmospheric sources of marine pollution.

CHAPTER EIGHT

RESPONSIBILITY AND LIABILITY

Article 41

1. States have the responsibility to ensure that activities under their jurisdiction or control do not cause damage to areas under the jurisdiction of other States or to the marine environment of other States and shall, in accordance with principles of international law be liable to other States for such damage.

2. States have the responsibility to ensure that activities under their jurisdiction or control do not cause damage to the marine environment beyond areas where States exercise sovereign rights in accordance with this Convention.

3. When necessary, States shall co-operate in the development of international law relating to the protection and preservation of the marine environment in establishing inter alia criteria and procedures for the determination of liability, the assessment of damage, the payment of compensation and the settlement of related disputes.*/

CHAPTER NINE

SOVEREIGN IMMUNITY

Article 42

The provisions of Chapters Six and Seven shall not apply to any warship, naval auxiliary or other vessel owned or operated by a State and used, for the time being, only on government noncommercial service. However, each State shall ensure by the adoption of appropriate measures not impairing the operations or operational capabilities of such vessels or other craft owned or operated by it, that such vessels or other craft act in a manner consistent, so far as is reasonable and practicable, with Chapters Six and Seven.

CHAPTER TEN

OTHER CONVENTIONS ON PRESERVATION OF THE MARINE ENVIRONMENT

Article 43

1. The provisions of this Convention shall be without prejudice to the specific obligations assumed by States under special conventions and agreements concluded previously which relate to the prevention of pollution of the marine environment nor to agreements which may be concluded in furtherance of the general principles set forth in this Convention.

*/ The question of settlement of disputes is referred to in Chapter _____ of this Convention.

A/CONF.62/WP.8/Part III
page 14

2. Specific obligations assumed by States under special conventions, with respect to the protection and preservation of the marine environment should be applied in a manner consistent with the general principles and objectives of this Convention.

CHAPTER ELEVEN

SETTLEMENT OF DISPUTES

Article 44

Any dispute with respect to the interpretation or application of the provisions of this Convention with respect to the preservation of the marine environment shall be resolved by the dispute settlement procedures contained in Chapter of this Convention.

PART ____

MARINE SCIENTIFIC RESEARCH

CHAPTER ONE

GENERAL PROVISIONSArticle 1

Marine scientific research means any study or related experimental work designed to increase man's knowledge of the marine environment. */

Article 2

All States, whether coastal or land-locked, as well as appropriate international organizations have the right to conduct marine scientific research subject to the provisions of this Convention.

Article 3

States shall endeavour to promote and facilitate in accordance with the provisions of this Convention the development and conduct of marine scientific research not only for their own benefit but also for the benefit of the international community.

Article 4

States and international organizations shall apply in the conduct of marine scientific research the following principles:

- (a) marine scientific research activities shall be conducted exclusively for peaceful purposes;
- (b) such activities shall not unduly interfere with other legitimate uses of the sea compatible with the provisions of this Convention and shall be duly respected in the course of such uses;
- (c) such activities shall comply with regulations established in conformity with the provisions of this Convention, for the preservation of the marine environment.

Article 5

Marine scientific research shall be conducted subject to the rights of coastal States as provided for in this Convention.

*/ A provision containing a definition of marine scientific research could be embodied in a special introductory chapter of this Convention together with all other definitions.

Article 6

In conducting marine scientific research in accordance with the provisions of this Convention States and competent international organizations shall use appropriate scientific methods and may utilize vessels, aircraft, devices, equipment or installations.

Article 7

Marine scientific research activities shall not form the legal basis for any claim whatsoever to any part of the marine environment or its resources.

CHAPTER TWO

INTERNATIONAL AND REGIONAL CO-OPERATION

Article 8

States shall, in accordance with the principle of respect for sovereignty and on the basis of mutual benefit, promote international co-operation in marine scientific research for peaceful purposes.

Article 9

States shall co-operate with one another, through the conclusion of bilateral and multilateral agreements, to create favourable conditions for the conduct of scientific research in the marine environment and to integrate the efforts by scientists in studying the essence of and the interrelations between phenomena and processes occurring in the marine environment.

Article 10

States shall, both individually, and in co-operation with other States and with competent international organizations, actively promote the flow of scientific data and information and the transfer of knowledge resulting from marine scientific research in particular to developing countries, as well as the strengthening of the autonomous marine research capabilities of developing countries through, inter alia, programmes to provide adequate education and training of their technical and scientific personnel.

Article 11

The availability to every State of information and knowledge resulting from marine scientific research shall be facilitated by effective international communication of proposed major programmes and their objectives, and by publication and dissemination of the results through international channels.

Article 12

States and international organizations shall endeavour to facilitate marine scientific research through bilateral or regional and other multilateral agreements.

CHAPTER THREE

CONDUCT AND PROMOTION OF MARINE SCIENTIFIC RESEARCHArticle 13

Coastal States have the exclusive right to conduct and regulate marine scientific research in their territorial sea. Scientific research activities therein shall be conducted only with the explicit consent of, and under the conditions set forth by the coastal State. Requests for such consent shall be submitted to the coastal State well in advance and shall be answered without undue delay.

Article 14

Marine scientific research beyond the territorial sea, in the economic zone and the continental shelf, shall be conducted by States as well as by appropriate international organizations in such a manner that the rights of the coastal State, as provided for in this Convention, are respected.

Article 15

States and international organizations which intend to undertake scientific research in the economic zone or on the continental shelf of a coastal State shall provide that State with a full description of:

- (a) the nature and objectives of the research project;
- (b) the means to be used, including name, tonnage, type and class of vessels;
- (c) the precise geographical areas in which the activities are to be conducted;
- (d) the expected date of first appearance and final departure of the research vessels or equipment as the case may be; and
- (e) the name of the sponsoring institution, its director and the scientist(s) in charge of the expedition.

Article 16

States and international organizations when undertaking scientific research shall comply with the following conditions:

- (a) ensure the rights of the coastal State, if it so desired, to participate or to be represented in the research project;
- (b) provide the coastal State an opportunity to participate directly or be represented, if it so desires, in the research on board vessels at the expense of the State conducting the research but without payment of any remuneration to the scientist of the coastal State;
- (c) provide the coastal State with the final results and conclusions of the research project;
- (d) undertake to provide to the coastal State on agreed basis raw and processed data and samples of materials;
- (e) if requested, assist the coastal State in assessing the said data and samples and the results thereof;

A/CONF.62/WP.8/Part III
page 18

- (f) ensure that the research results are made internationally available through International Data Centres or through other appropriate international channels as soon as feasible;
- (g) inform the coastal State immediately of any major change in the research programme; and
- (h) comply with all relevant provisions of this Convention.

Article 17

The communication concerning the research project shall be made through appropriate official channels and the coastal State shall acknowledge its receipt immediately.

Article 18

1. States and international organizations, which intend to undertake scientific research shall indicate in their communication to the coastal State whether they consider the research project to be of a fundamental nature or related to the resources of the economic zone or continental shelf.

2. States shall seek to promote through competent international organizations the establishment of criteria and guidelines concerning the differentiation between research directly related to the exploration and exploitation of the living and non-living resources and fundamental research which is not directly related to exploration and exploitation of such resources.

Article 19

If the coastal State considers that the research project defined by the researching State as fundamental is not of such nature, it may object only on the ground that the said project would infringe on its rights as defined in this Convention over the natural resources of the economic zone, or continental shelf.

Article 20

Any dispute with respect to the determination of the nature of the research project, if not settled by negotiation between the parties concerned shall, at the request of any of the parties of the dispute, be submitted for settlement in accordance with the procedures set out in the relevant articles of this Convention.

Article 21

Any research project related to the living and non-living resources of the economic zone and the continental shelf shall be conducted only with the explicit consent of the coastal State. In this case the following conditions shall apply:

- (a) the conditions specified in Articles 15 and 16 with the exception of condition (f) of Article 16;
- (b) if requested, submit to the coastal State as soon as practicable after the completion of the research, a report including a preliminary interpretation;
- (c) ensure that the research results are not published or made internationally available without the express consent of the coastal State; and
- (d) fulfil any other request for information relating directly to the research project.

Article 22

When the research is of fundamental nature the coastal State may indicate within ____ days of the communication concerning the research project its intent to participate in the different phases of the research on mutually agreed terms. In case the coastal State does not reply, the researching State or the international organization shall proceed with the realization of the research project in accordance with the conditions referred to in Article 16.

Article 23

1. States and international organizations conducting marine scientific research in the economic zone of a coastal State shall take into account the interest, and rights of the land-locked and other geographically disadvantaged States of the region, neighbouring to the research area, as provided for in this Convention, and shall notify these States of the proposed research project as well as provide, at their request, relevant information and assistance as specified in Article 15 and Article 16, subparagraphs (e) and (g).

2. Such neighbouring land-locked and other geographically disadvantaged States shall, at their request, be given the opportunity to participate, whenever feasible in the proposed research project through qualified experts to be appointed by them.

Article 24

Coastal States shall on the basis of bilateral or regional and other multilateral agreements and in a spirit of international co-operation with a view to promoting marine scientific research activities conducted in accordance with this Convention, adopt measures, including domestic legislation, to facilitate access to their harbours and to provide assistance for marine scientific research vessels carrying on such activities.

Article 25

1. All States, whether coastal or land-locked, as well as appropriate international organizations shall have the right in conformity with the provisions of this Convention to conduct marine scientific research in the international sea-bed area.

2. Information concerning the research project in accordance with Article 15 shall be submitted not less than ____ days beforehand to the International Sea-bed Authority, established in accordance with the provisions of this Convention.

3. When a resource oriented marine scientific research programme is planned in an area immediately adjacent to the economic zone or continental shelf of a coastal State, and research incidental to the research programme, involving entries into the economic zone of the coastal State may be required, the coastal State may request that the provisions of Article 21 be fulfilled.

4. The research results should be published in a readily available scientific publication, and in any event made internationally available through appropriate international channels, as soon as possible.

Article 26

All States whether coastal or land-locked as well as appropriate international organizations shall have the right in conformity with the provisions of this Convention to conduct marine scientific research in the waters of the high seas beyond the limits of the economic zone.

CHAPTER FOUR

STATUS OF SCIENTIFIC EQUIPMENT IN THE MARINE ENVIRONMENTArticle 27

The deployment and use of any type of scientific research installations or equipment in the marine environment shall be subject to the same conditions as those for the conduct of marine scientific research, as provided for in this Convention.

Article 28

All the rights necessary to operate and manage and the responsibility for such installations or equipment shall remain with the States or the international organizations which have deployed them or on whose behalf they have been deployed, in accordance with the provisions of this Convention, unless otherwise agreed between the parties concerned.

Article 29

In areas where the consent of the coastal State is needed for the conduct of marine scientific research in accordance with this Convention the coastal State has the power to inspect and ensure that the installations or equipment are used in conformity with the purposes and conditions set out for the conduct of the research project, including the right, in the case of contravention by the deploying States or international organizations, to take all appropriate judicial and administrative measures.

Article 30

The installations or equipment referred to in this Chapter shall not have the status of islands or possess their own territorial waters, and their existence shall not affect the delimitation of the territorial sea, continental shelf or economic zone of the coastal State.

Article 31

Safety zones of a width not exceeding ___ metres measured from the outermost points of the installations referred to in this Chapter may be created around the installations. All States shall ensure that such safety zones are respected by their ships.

Article 32

The deployment and use of any type of scientific research installations or equipment must not constitute an obstacle to the established international shipping routes.

Article 33

Installations or equipment referred to in this Chapter shall bear identification markings indicating the State or international organization to which they belong and will have adequate warning signals to ensure the safety of sea and air navigation.

CHAPTER FIVE

RESPONSIBILITY AND LIABILITYArticle 34

States and competent international organizations shall be responsible for ensuring that marine scientific research, whether undertaken by them or on their behalf, is conducted in accordance with the provisions of this Convention.

They shall be liable in conformity with international law for damage arising out of marine scientific research undertaken by them or on their behalf.

Article 35

1. States shall also take the necessary legislative or regulatory measures to prohibit any conduct of marine scientific research by their nationals, natural or juridical, or by other persons under their jurisdiction, which is in contravention of the provisions of this Convention and to establish sanctions therefor.

2. States shall ensure that recourse is available in accordance with their legal systems for compensation or other relief in respect of damages arising out of marine scientific research.

3. The liability in respect of damage caused within the area under national jurisdiction and/or sovereignty of a coastal State arising from marine scientific research activities shall be governed by the law of the coastal State, taking into account the relevant principles of international law.

Article 36

States undertake to co-operate in the development of international law relating to procedures for the assessment of damage, the determination of liability, the payment of compensation and the settlement of related disputes.

CHAPTER SIX

SETTLEMENT OF DISPUTESArticle 37

Any dispute with respect to the interpretation or application of the provisions of this Convention with respect to marine scientific research shall be resolved by the dispute settlement procedures contained in Chapter ____ of this Convention.

PART _____

DEVELOPMENT AND TRANSFER OF TECHNOLOGY

CHAPTER ONE

GENERAL PROVISIONSArticle 1

1. All States either directly or through appropriate international organizations shall co-operate within their capabilities to actively promote the development and transfer of marine sciences and marine technology at fair and reasonable terms, conditions and prices.

2. States in particular shall promote the development of the marine scientific and technological capacity of developing States including land-locked and geographically disadvantaged States */ in consonance with their economies and needs, with regard to the exploration, exploitation, conservation and management of marine resources, the preservation of the marine environment and the equitable and legitimate uses of the marine environment compatible with this Convention, with a view to accelerating the social and economic development of the developing States.

Article 2

All States, in promoting such co-operation, shall have proper regard for all legitimate interests including, inter alia, the rights and duties of holders, suppliers and recipients of technology.

Article 3

All States, either directly or through appropriate international organizations, shall inter alia:

- (a) promote the acquisition, evaluation and dissemination of marine scientific and technological knowledge;
- (b) promote the development of appropriate marine technology;
- (c) promote the development of the necessary technological infrastructure to facilitate the transfer of marine scientific technology in consonance with the economy and the needs of the recipient country;
- (d) promote the development of human resources through training and education and especially the training of national personnel of a lesser developed State;
- (e) facilitate access to scientific and technological information and data; and
- (f) promote international co-operation at all levels, particularly at the regional, subregional and bilateral levels.

*/ The definition of the words "geographically disadvantaged States" could be considered in a special introductory Chapter of this Convention together with all other definitions.

Article 4

In order to achieve the above-mentioned objectives, States, either directly or through the appropriate international organizations shall endeavour to, inter alia:

- (a) establish programmes of technical co-operation for the effective transfer of all kinds of marine technology to the developing States, particularly the developing land-locked States which, due to their geographically disadvantaged situation, have not been able to either establish or develop their own technological capacity in marine science and in the exploration and exploitation of the marine resources, and to develop the infrastructure of such technology;
- (b) promote favourable conditions for the conclusion of agreements, contracts and other similar arrangements, under equitable and reasonable conditions;
- (c) hold conferences, meetings and seminars on appropriate scientific and technological subjects;
- (d) promote the exchange of scientists, technologists and other experts;
- (e) undertake projects, promote joint-ventures, mixed enterprises (including State enterprises) and other forms of bilateral and multilateral co-operation.

CHAPTER TWO

INTERNATIONAL CO-OPERATIONArticle 5

International co-operation for the development and transfer of technology shall, where feasible and appropriate, be carried out through existing bilateral regional or multilateral programmes, and also through expanded and new programmes to facilitate marine scientific research and the transfer of marine technology in new fields.

Article 6

States, either directly or through appropriate international organizations shall promote the establishment of universally accepted guidelines, taking into account in particular the interests and needs of the developing States, for the transfer of marine technology and other work in the field of transfer of technology on a bilateral basis or within the framework of international organizations and other fora.

Article 7

States shall endeavour to ensure that international organizations competent in the field of the transfer of technology co-ordinate their activities in this field, including any regional or international programmes, taking into account the interests and needs of the developing States, including land-locked and geographically disadvantaged States.

Article 8

All States shall co-operate actively with the International Sea-bed Authority established in accordance with this Convention, to encourage and facilitate the transfer to developing States and their nationals of skills and technology with regard to exploration of the international sea-bed area, the exploitation of its resources and related activities.

Article 9

The International Sea-bed Authority shall, within its competence concerning the exploration of the international sea-bed area, the exploitation of its resources and related activities, as provided for in Article ___, ensure:

- (a) that nationals of developing States whether coastal, land-locked or otherwise geographically disadvantaged, on an equitable geographical distribution, be taken on under training as members of the managerial, research and technical staff constituted for its undertakings;
- (b) that the technical documentation on the relevant equipment, machinery, devices and processes be made available to all developing States upon request;
- (c) that adequate provisions are made by it to facilitate the acquisition by any developing State, or its nationals, of the necessary skills and know-how including professional training;
- (d) that the developing States, are assisted in the acquisition of necessary equipment, processes, plant and other technical know-how through a special fund or any other financial arrangement designed for this purpose.

CHAPTER THREE

REGIONAL MARINE SCIENTIFIC AND TECHNOLOGICAL CENTRESArticle 10

States shall promote, within their capabilities the establishment, especially in developing States, of regional marine scientific and technological research centres, in co-ordination with the International Sea-bed Authority when appropriate as well as with international organizations and national marine scientific and technological institutions, in order to stimulate and advance the conduct of marine scientific research by developing States.

Article 11

The functions of such regional centres shall include, inter alia:

- (a) training and educational programmes at all levels on various aspects of marine scientific and technological research, particularly marine biology, including conservation and management of living resources, oceanography, hydrography, engineering, geology, sea-bed mining and desalination technologies;
- (b) management studies;
- (c) study programmes related to the preservation of the marine environment and the control of pollution;
- (d) organization of regional seminars, conferences and symposia;
- (e) acquisition and processing of marine scientific and technological data and information;

- (f) prompt dissemination of results of marine scientific and technological research in readily available publications;
- (g) serving as a repository of marine technologies for the States of the region covering both patented and non-patented technologies and know-how; and
- (h) technical co-operation to the countries of the region.

PART IV

SETTLEMENT OF DISPUTES

MAY 1, 1975.

H.E. Mr. SHIRLEY AMERASINGHE,
President

Third United Nations Conference on the Law of the Sea.

DEAR MR. PRESIDENT: We are writing in our personal capacities as co-chairmen of the informal Working Group on Settlement of Disputes which met during the Caracas session of the Conference and has continued to meet regularly during the present session. It was open to all participants in the Conference and has been attended at one time or another by representatives from more than 60 countries, although some of these have participated only in some of the meetings. The Working Group took as its basis for discussion the alternative texts submitted at Caracas in Document A/CONF.62/L.7. This discussion proved useful in developing an understanding of the various points of view represented in the Group.

The attached opening Articles (1-4) were prepared for the consideration of the Conference.

Following on these opening Articles, one suggested approach to dispute settlement would be of a general nature—as illustrated by Annex I, Articles 5-17, together with sub-annexes dealing with conciliation, arbitration and a Law of the Sea Tribunal—although this approach could include special functional procedures under Article 6, for example with respect to the sea-bed beyond national jurisdiction.

Another approach would be functional, based upon the reference of specific categories of disputes to special procedures of settlement as illustrated in Annex II.

Some participants considered that a system of compulsory settlement should not be applied to disputes relating to maritime zones within national jurisdiction. Other participants disagreed with this point of view and thought that exception should be kept to a minimum.

The Group considered also an additional preliminary chapter on "Information and Consultation" as shown in Annex III.

The Group considered also an additional preliminary chapter on "Information and Consultation" as shown in Annex III.

In submitting the working paper to you for your information we would stress that every participant in the work of the Group remains completely free to adopt whatever view he or she thinks appropriate in relation to these texts.

As the question of disputes settlement is of concern to all three main Committees as well as to the Conference as a whole, we are sending this letter and the accompanying texts to the President of the Conference and to the Chairmen of the three Committees.

Your sincerely,

(Signed) A.O. ADEDE,
(Kenya).

(Signed) R. GALINDO POHL,
(El Salvador).

(Signed) R.L. HARRY,
(Australia).

CHAPTER . SETTLEMENT OF DISPUTES

ARTICLE 1¹

¹ The Working Group recommends that the Conference consider the desirability of including the following phrase in the preamble to the Convention: "Having regard to the Declaration on Principles of International Law concerning Friendly Relations and Co-operative among States in accordance with the Charter of the United Nations . . ."

The Contracting Parties shall settle any dispute between them relating to the interpretation or application of this Convention through the peaceful means indicated in Article 33 of the Charter of the United Nations.

ARTICLE 2

Nothing in this Chapter shall impair the right of the Contracting Parties to agree at any time to settle a dispute between them which relates to the interpretation or application of this Convention by any peaceful means of their own choice.

ARTICLE 3

If the Contracting Parties which are parties to a dispute relating to the interpretation or application of this Convention have accepted, through a general, regional or special agreement, or some other instruments, an obligation to resort to arbitration or judicial settlement, any party to the dispute may refer it to arbitration or judicial settlement in accordance with such agreement or instruments in place of the procedure specified in this Chapter, unless the parties agree otherwise.

ARTICLE 4

1. If a dispute arises between two or more Contracting Parties with respect to the interpretation or application of this Convention, those Parties shall proceed expeditiously to exchange views regarding settlement of the dispute.

2. Similarly, such an exchange of views shall be held whenever a procedure under this Convention, or another procedure chosen by the parties, has been terminated without a settlement of the dispute.

ANNEX I

ARTICLE 5

If the Contracting Parties which are parties to a dispute have agreed to settle a dispute by a peaceful means of their own choice and have agreed on a time limit for such proceedings, the procedure specified in this Chapter shall apply only after the expiration of that time limit, provided that no settlement has been reached and the agreement between the parties does not preclude any further procedure.

ARTICLE 6

Where a chapter of this Convention provides a special procedure for settling all or some disputes relating to the interpretation or application of that chapter, the procedure specified in this Chapter shall apply only after that special procedure has been concluded, provided that no settlement has been reached and the relevant chapter does not preclude any further procedure.

ARTICLE 7

1. Where no special procedure is provided for in other chapters of this Convention, any Contracting Party which is party to a dispute relating to the interpretation or application of this Convention may invite the other party or parties to the dispute to submit the dispute to conciliation in accordance with Annex IA.

2. If the other party accepts this invitation, the conciliation procedure shall proceed in accordance with Annex IA, subject to paragraph 3 below.

3. If a party to the dispute does not accept the invitation, or after accepting the invitation refuses to appoint its members of the conciliation commission or the chairman thereof, the party which has initiated the proceedings may terminate the proceedings by notifying the other party or parties to the dispute to this effect.

4. If the conciliation procedure is terminated in accordance with the preceding paragraph, or if the dispute is not settled by conciliation, either party to the dispute may resort to the procedure specified in this Chapter.

ARTICLE 8

1. Subject to the preceding provisions of this Chapter, any dispute relating to the interpretation or application of this Convention which has not been settled in accordance with those provisions shall be settled in accordance with the provisions of Articles 9 and 10 of this Chapter. Any such dispute may be submitted to the tribunal having jurisdiction under these Articles by application of any party to the dispute.

ARTICLE 9

1. In disputes relating to the interpretation or application of this Convention, the following tribunals shall have jurisdiction to the extent and in the manner provided for in this Chapter:

- (a) An arbitral tribunal constituted in accordance with Annex IB.
- (b) The Law of the Sea Tribunal constituted in accordance with Annex IC.
- (c) The International Court of Justice.

2. The jurisdiction of these tribunals with respect to a Contracting Party shall be determined in accordance with the following provisions:

(a) A Contracting Party, when ratifying this Convention, or otherwise expressing its consent to be bound by this Convention, shall make a declaration that it accepts with respect to decisions to be made in accordance with Article 10 of this Chapter the jurisdiction of an arbitral tribunal, or the Law of the Sea Tribunal or the International Court of Justice, or any two or three of them.

(b) If a Contracting Party has not made such a declaration, it shall be subject to the jurisdiction of [an arbitral tribunal] [the Law of the Sea Tribunal].

(c) A Contracting Party may also make or change a declaration at any time after it becomes bound by this Convention. Any such declaration or change shall not affect any proceeding already pending before a tribunal having jurisdiction under this Article.

(d) Unless the parties agree otherwise, any case against a Contracting Party can be submitted only to the tribunal the jurisdiction of which has been accepted by that Party at the time the proceedings are being instituted

ARTICLE 10

1. Subject to provisions of Articles 1 to 9 of this Chapter, the tribunal which has jurisdiction over a Contracting Party under Article 9 shall be entitled to exercise its jurisdiction in the following instances:

(a) Primary jurisdiction over any dispute between Contracting Parties relating to the interpretation or application of this Convention for which no special procedure has been provided in another chapter of this Convention and in which no resort has been made to conciliation procedure under Article 7 of this Chapter.

(b) Secondary jurisdiction over any dispute between Contracting Parties relating to the interpretation or application of this Convention which has not been settled by conciliation procedure under Article 7 of this Chapter or to a special procedure provided for in another chapter of this Convention unless that chapter expressly excludes further procedure under this Chapter.

(c) Appellate jurisdiction, limited to cases specified in paragraph 4 of this Article, over any dispute between Contracting Parties relating to the interpretation or application of this Convention in which binding decision has been rendered as a result of resort to a special procedure provided for in another chapter of this Convention and in which an appellate procedure is not expressly excluded.

(d) Special jurisdiction over any dispute arising under a clause in this Convention, in the rules or regulations enacted thereunder, or in an agreement or arrangement concluded pursuant to this Convention or related to the purposes of this Convention, which expressly provides that a particular category of disputes be settled in accordance with the procedure specified in this Chapter.

2. The jurisdiction under paragraph 1(a) of this Article may not be exercised:

(a) if another chapter of this Convention expressly excludes such jurisdiction with respect to any dispute relating to that chapter; or

(b) if another chapter of this Convention provides that any dispute relating to that chapter shall be dealt with in accordance with a specified annex to this Chapter.

3. In any case submitted under paragraph 1(b) of this Article, the findings of fact made in accordance with a special procedure provided for in another chapter of this Convention shall be considered conclusive unless one of the parties presents positive proof that a gross error has been committed.

4. The jurisdiction under paragraph 1(c) of this Article may be exercised only when one of the parties to the dispute presents a claim that the decision rendered under another chapter of this Convention was invalid because of:

- (a) lack of jurisdiction;
- (b) infringement of basic procedural rules;
- (c) abuse or misuse of power; or
- (d) gross violation of this Convention.

5. A claim under paragraph 4 of this Article must be submitted within three months from the date of the contested decision.

ARTICLE 11

1. When dealing with a dispute relating to chapters _____ of this Convention, the tribunal having jurisdiction under Articles 9 and 10 of this Chapter may, at the request of one or more of the parties or on its own initiative, either

- (a) refer any scientific or technical matters to a committee of experts chosen from the list of qualified persons prepared in accordance with Annex _____; or

- (b) select four technical assessors from the list mentioned in the preceding subparagraph, who shall sit with the tribunal throughout all the stages of the proceedings, but without the right to vote.

2. In a case referred to a committee of experts under subparagraph 1(a) of this Article, if the dispute is not settled on the basis of the committee's opinion, either party to the dispute may request that the tribunal proceed to consider the other aspects of the dispute, taking into consideration the findings of the committee and other pertinent information.

ARTICLE 12

1. Upon the request of any Contracting Party which is a party to a dispute, the tribunal to which a dispute has been submitted under Article 9 shall have the power to prescribe, if it considers that circumstances so require and after giving the parties to the dispute an opportunity to be heard, such provisional measures, consistent with the main purposes and basic principles of this Convention, as it considers appropriate for the preservation of the respective rights of the parties and for minimizing damage to any party pending final adjudication.

2. If in the course of a dispute settlement procedure commenced under this Convention an additional dispute shall arise between two or more Contracting Parties as to the need for provisional measures to preserve the respective rights of the parties to such a procedure, or as to the content or extent of such measures, and if the organ to which the main dispute has been submitted has not yet been constituted or does not have the power to prescribe such measures, the _____ shall have jurisdiction to prescribe such measures. These measures shall remain in force until an organ dealing with the merits of the dispute, and having the power to prescribe provisional measures, decides otherwise.

3. Notice of any provisional measures prescribed under this Article shall be given forthwith to the parties to the dispute and to all Contracting Parties.

4. Any provisional measures prescribed under this Article or an annex to this Chapter shall be binding upon the parties to the dispute. In any case in which the International Court of Justice has jurisdiction under Article 9 of this Chapter, any provisional measures indicated by that Court shall be binding on the parties to the dispute.

ARTICLE 13

1. The tribunals specified in Article 9 of this chapter, shall be open to the Contracting Parties.

2. The conditions under which these tribunals shall be open to other States, to territories participating as observers in the Third Law of the Sea Conference, to international intergovernmental organizations and, whenever so provided in this Convention, to natural and juridical persons, shall be laid down by the Contracting Parties at a meeting to be held as soon as possible after coming into force of this Convention.

3. The provisions of this Article shall be without prejudice to the access, specified in this Convention, to any special procedure provided for in other chapters of this Convention.

4. The relevant provisions of paragraph 2 of this Article shall not apply to the International Court of Justice as long as that court is not open to entities other than States.

ARTICLE 14

1. In the case of a dispute between two or more Contracting Parties relating to the exercise by a coastal State of its enforcement jurisdiction in accordance with this Convention, or relating to its exercise of jurisdiction over resources in the economic zone, a Contracting Party shall not be entitled to submit a dispute to the procedure specified in Articles 9 and 10 of this chapter, if local remedies have not been previously exhausted as required by international law.

2. In any other dispute relating to the interpretation and application of this Convention, a Contracting Party which has taken measures alleged to be contrary to this Convention shall not be entitled to object to the jurisdiction of the tribunal under Articles 9 and 10 of this Chapter solely on the ground that local remedies have not been exhausted as required under international law.

ARTICLE 15²

1. In case of the detention by the authorities of a Contracting Party of a vessel flying the flag of another Contracting Party, or of its crew or passengers, in connection with a violation of this Convention, the owner or operator of the vessel, or a member of the crew or a passenger of the vessel, shall have the right to bring the question of detention before the Law of the Sea Tribunal in order to secure prompt release of the vessel or of its crew or passengers in accordance with the applicable provisions of this Convention, including the presentation of a bond, and without prejudice to the merits of any case against the vessel, or its crew or passengers.

2. The Statute of the Law of the Sea Tribunal shall provide for an accelerated procedure to deal with cases under the preceding paragraph.

3. The decision of the Tribunal that the vessel, or its crew or passengers, be released shall be promptly complied with by the authorities of the Contracting Party concerned.

ARTICLE 16

1. In any dispute submitted to the tribunal having jurisdiction under Articles 9 and 10 of this Chapter, the tribunal shall apply the law of this Convention and any other applicable law.

2. In any such dispute the tribunal shall ensure that the rule of law is observed in the interpretation and application of this Convention.

3. The provisions of this Chapter shall not prejudice the right of the parties to the dispute to agree that the dispute be settled *ec acquo et bono*.

ARTICLE 17³

1. When ratifying this Convention, or otherwise expressing its consent to be bound by it, a State may declare that, with respect to any dispute arising out of the exercise by a coastal State of its exclusive jurisdiction under this Convention, it limits its acceptance of some of the dispute settlement procedures specified in this Convention to those situations in which it is claimed that a coastal State has violated its obligations under this Convention by:

(a) interfering with the freedoms of navigation or overflight or of the laying of submarine cables or pipelines, or related rights and duties of other States;

(b) failing to have due regard to other rights and duties of other States under this Convention;

(c) not applying international standards or criteria established by this Convention or in accordance therewith; or

(d) abusing or misusing the rights conferred upon it by this Convention (*abus ou détournement de pouvoir*) to the disadvantage of another Contracting Party.

2. If one of the parties to a dispute has made such a declaration and if the parties to a dispute are not in agreement as to whether the dispute involves a violation of this Convention specified in the preceding paragraph, this preliminary question shall be submitted to decision by the tribunal having jurisdiction under Articles 9 and 10 of this Convention.

² This article may be later located in some other chapter or chapters of this Convention.

³ The precise drafting and implications of this Article, in particular of paragraph 3(a), will require further examination in the light of the substantive provisions of this Convention.

3. Whether or not it has made a declaration under paragraph 1 of this Article, a State may declare, when ratifying this Convention, or otherwise expressing its consent to be bound by it, that it does not accept some [or all] of the procedures for the settlement of disputes specified in this Convention with respect to one or more of the following categories of disputes:

(a) Disputes arising out of the exercise of discretionary rights by a coastal State pursuant to its regulatory and enforcement jurisdiction under this Convention, except in cases involving an abuse of power.

(b) Disputes concerning sea boundary delimitations between adjacent States, or those involving historic bays or titles, provided that the State making such a declaration shall indicate therein a regional or other third-party procedure, [whether or not] entailing a binding decision, which it accepts for the settlement of these disputes.

(c) Disputes concerning military activities, including those by government vessels and aircraft engaged in non-commercial service, but law enforcement activities pursuant to this Convention shall not be considered military activities.

(d) Disputes or situations in respect of which the Security Council of the United Nations is exercising the functions assigned to it by the Charter of the United Nations, unless the Security Council has determined that specified proceedings under this Convention would not interfere with the exercise of such functions in a particular case.

(e) * * *

(f) * * *

4. A Contracting Party, which has made a declaration under paragraphs 1 or 3 of this Article, may at any time withdraw all or part of its exceptions.

5. If one of the Contracting Parties has made a declaration under paragraphs 1 or 3 of this Article, any other Contracting Party may enforce the same exception in regard to the Party which made the declaration.

ANNEX IA. CONCILIATION

1. Any reference of a dispute to the conciliation procedure provided for in this Annex shall be subject to the provisions of Article 7 of Chapter ____ of this Convention.

2. A list of conciliators shall be drawn up and maintained by the _____. To this end, every Contracting Party shall nominate four conciliators, each of whom shall be a person enjoying the highest reputation for fairness, competence and integrity. The names of the persons so nominated shall constitute the list. The term of a conciliator, including that of any conciliator nominated to fill a casual vacancy, shall be five years and may be renewed. A conciliator whose term expires shall continue to fulfill any function for which he shall have been chosen under the following paragraph.

3. Whenever a dispute is referred to conciliation under Article 7 of Chapter ____ of this Convention, the party or parties initiating this procedure shall notify the _____ who shall assist the parties in the establishment of a conciliation commission. This commission shall be constituted as follows:

(a) The State or States constituting one of the parties to the dispute shall appoint:

(i) one conciliator of the nationality of that State or of one of those States, who may or may not be chosen from the list referred to in paragraph 1; and

(ii) one conciliator not of the nationality of that State or of any of those States, who shall be chosen from the list.

(b) The State or States constituting the other party to the dispute shall appoint two conciliators in the same way. The four conciliators chosen by the parties shall be appointed within thirty days following the date on which the Registrar receives the notification.

(c) The four conciliators shall, within thirty days following the date of the last of their own appointments, appoint a fifth conciliator chosen from the list, who shall be chairman.

(d) If the appointment of the chairman or of any of the other conciliators has not been made within the period prescribed above for such appointment, it shall be made by the _____ within thirty days following the expiry of that period. The appointment of the chairman may be made by the _____ from the list referred to in paragraph 1. Any of the periods within which appointments must be made may be extended by agreement between the parties to the dispute.

- (e) Any vacancy shall be filled in the manner prescribed for the initial appointment.
4. The Conciliation Commission shall decide its own procedure. The Commission, with the consent of the parties to the dispute, may invite any Contracting Party to submit to it its views orally or in writing. Decisions and recommendations of the Commission shall be made by a majority vote of the five members.
5. The Commission may draw the attention of the parties to the dispute to any measures which might facilitate an amicable settlement.
6. The Commission shall hear the parties, examine their claims and objections, and make proposals to the parties with a view to reaching an amicable settlement of the dispute.
7. The Commission shall report within twelve months of its constitution. Its report shall be deposited with the _____ and transmitted to the parties to the dispute. The report of the Commission, including any conclusions stated therein regarding the facts or questions of law, shall not be binding upon the parties and it shall have no other character than that of recommendations submitted for the consideration of the parties in order to facilitate an amicable settlement of the dispute.
8. The _____ shall provide the Commission with such assistance and facilities as it may require. The fees and expenses of the Commission shall be borne by the United Nations.

ANNEX IB. ARBITRATION

1. Any reference of a dispute to the arbitration procedure provided for in this Annex shall be subject to the provisions of Chapter _____ of this Convention.
2. Unless the parties agree otherwise, the arbitration tribunal shall be constituted as follows:
- (a) The Arbitration Tribunal shall consist of five members. Each Contracting Party which is a party to the dispute shall appoint one member, who may be its national. The three other members shall be appointed by agreement from among the nationals of third States. These three members must be of different nationalities and must not be habitually resident in the territory nor be in the service of any of the parties to the dispute. The parties to the dispute shall appoint the President of the Tribunal from among these three members.
- (b) The request for arbitration by any party to the dispute shall be accompanied by the appointment by that party of a member of the Arbitration Tribunal. If within a period of sixty days from the date of receipt of the request for arbitration, the other party to the dispute has not appointed a member, the _____ shall, upon request of the party which had indicated the procedure of arbitration, appoint the member for the other party.
- (c) The same method of appointment shall apply if, within a period of sixty days from the date of receipt of the request for arbitration, the parties are unable to reach agreement on the appointment of one or more of the members of the Tribunal to be designated jointly, or on the appointment of the President, and if either party to the dispute requests the _____ to make the remaining appointment or appointments. The appointments to be made by the _____ shall be made within a period of ninety days after his receipt of the request after consultations with the parties and appropriate international organizations, from among persons experienced in law of the sea questions and having special expertise in the subject matter of the dispute.
- (d) Vacancies which may occur as a result of death, resignation or any other cause shall be filled in the manner fixed for the original appointments.
- (e) Should a dispute arise between more than two States, and should there be several parties in the same interest, they shall appoint one member of the Tribunal jointly by agreement. Should there be, however, several parties having separate interests, each of them shall appoint one member of the Tribunal, but in such a case the number of members of the Tribunal appointed separately by the parties shall always be smaller by one than the number of members of the Tribunal to be appointed from among the nationals of other States. Subparagraphs (a)-(d) of this Article shall apply, to the maximum extent possible, in cases involving more than two states. In case of a dispute about the applicability of this paragraph, the _____ shall decide that question.

3. In the absence of an agreement to the contrary between the parties to the dispute, the Arbitration Tribunal shall lay down its own procedure assuring to each party a full opportunity to be heard and to present its case. If the Tribunal is unable to agree on its rules of procedures, Part IV of the Hague Convention for the Pacific Settlement of International Disputes of 1907 shall apply.

4. Upon the request of any party or parties to the dispute, the Arbitration Tribunal shall have the power to prescribe, if it considers that circumstances so require and after giving the parties to the dispute an opportunity to be heard, such provisional measures as it considers appropriate for the preservation of the respective rights of the parties and for minimizing damage to any party pending the final decision of the Tribunal. Such measures shall be binding upon the parties.

5. The parties to the dispute shall facilitate the work of the Arbitration Tribunal and, in particular, in accordance with their legislation and using all means at their disposal:

(a) provide the Tribunal with all relevant documents and information; and

(b) enable the Tribunal when necessary to enter their territories, to hear witnesses or experts, or to visit the localities in question.

6. Unless the Arbitration Tribunal determines otherwise because of the particular circumstances of the case, the expenses of the Tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares.

7. Decisions of the Arbitration Tribunal shall be taken by a majority vote. The absence or abstention of one or two of the members shall not constitute an impediment to the Tribunal reaching a decision. In the event of an equality of votes, the President shall have a casting vote.

8. Absence or default of any party to the dispute shall not constitute an impediment to the procedure. Before deciding in favour of any party, the Arbitration Tribunal must satisfy itself not only that it has jurisdiction over the dispute but also that the claim is well founded in fact and law.

9. The award of the Arbitration Tribunal shall be accompanied by a statement of reasons. Any member of the Tribunal may attach a separate or dissenting opinion to the award.

10. The award shall be final and without appeal. The parties to the dispute shall immediately comply with the award.

11. Any controversy which may arise between the parties to the dispute as regards the interpretation or execution of the award may be submitted by either party for decision to the Arbitration Tribunal which made the award, or, if not available, to another Arbitration Tribunal constituted for this purpose in the same manner as the original Tribunal.

ANNEX IC. STATUTE OF THE LAW OF THE SEA TRIBUNAL

ARTICLE 1

1. The Law of the Sea Tribunal shall be constituted and shall function in accordance with the provisions of the Law of the Sea Convention and the present Statute.

2. Any reference of a dispute to the Tribunal shall be subject to the provisions of Chapter _____ of this Convention.

CHAPTER I. ORGANIZATION OF THE TRIBUNAL

ARTICLE 2

1. The Tribunal shall be composed of a body of independent judges, elected regardless of their nationality from among persons of high moral character, who are lawyers of recognized competence in law of the sea matters.

2. In the Tribunal as a whole the representation of the principal legal systems of the world shall be assured.

ARTICLE 3

1. The Tribunal shall consist of nine members, no two of whom may be nationals of the same State.

2. A person who for the purposes of membership in the Tribunal could be regarded as a national of more than one State shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.

3. The Contracting Parties, may, taking into consideration the workload of the Tribunal, increase the number of members of the Tribunal up to fifteen, or decrease it again down to nine. Such a decision shall require a two-thirds vote of all the Contracting Parties.

ARTICLE 4

1. The members of the Tribunal shall be elected from a list of persons having the qualifications prescribed in Article 2 and nominated for the purpose by the Contracting Parties. Each Contracting Party may nominate not more than two persons.

2. At least three months before the date of the election, the Secretary-General of the United Nations in the case of the first election and the Registrar of the Tribunal in the case of subsequent elections shall address a written invitation to the Contracting Parties to submit their nominations for members of the tribunal within three months. He shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the Contracting Parties which have nominated them, and shall submit it to the Contracting Parties at the beginning of the last month before the date of each election.

3. The first election shall be held no later than six months after the date of entry into force of this Convention.

4. Elections of the members of the Tribunal shall be by secret ballot.⁴

ARTICLE 5

1. The members of the Tribunal shall be elected for nine years and may be re-elected; provided, however, that of the judges elected at the first election, the terms of three members shall expire at the end of three years and the terms of three more members shall expire at the end of six years.

2. The members of the Tribunal whose terms are to expire at the end of the above-mentioned initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General of the United Nations immediately after the first election has been completed.

3. Any decision of the Contracting Parties to increase or decrease the number of members of the Tribunal shall contain appropriate provisions for ensuring the system of staggered terms provided for in this Article.

4. The members of the Tribunal shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun.

5. In the case of the resignation of a member of the Tribunal, the resignation shall be addressed to the President of the Tribunal. The place becomes vacant on the receipt of the letter of resignation.

ARTICLE 6

1. Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision: the Registrar shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in Article 4, and the date of the election shall be fixed by the President of the Tribunal after consultation with Contracting Parties.

2. A member of the Tribunal elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

ARTICLE 7

1. No member of the Tribunal may exercise any political or administrative function, or associate activity with or be financially interested in any of the operations of any enterprise concerned with the exploration or exploitation of the resources of the sea or the seabed or other commercial use of the sea or the seabed.

2. Any doubt on this point shall be settled by a decision of the Tribunal.

ARTICLE 8

1. No member of the Tribunal may act as agent, counsel, or advocate in any case.

2. No member may participate in the decision of any case in which he has previously taken part as agent, counsel, or advocate for one of the parties, or as a member of a national or international court, or in any other capacity.

3. Any doubt on this point shall be settled by the decision of the Tribunal.

⁴ The method of election of members of the Tribunal is left for future consideration.

ARTICLE 9

If, in the unanimous opinion of the other members of the Tribunal, a member has ceased to fulfill the required conditions, the President of the Tribunal shall declare the seat vacant.

ARTICLE 10

The members of the Tribunal, when engaged on the business of the Tribunal, shall enjoy diplomatic privileges and immunities.

ARTICLE 11

Every member of the Tribunal shall, before taking up his duties, make a solemn declaration in open session that he will exercise his powers impartially and conscientiously.

ARTICLE 12

1. The Tribunal shall elect its President and Vice-President for three years; they may be re-elected.

2. The Tribunal shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.

ARTICLE 13

1. The seat of the Tribunal shall be established at _____ or at such other place as shall at any time be approved at a meeting of the Contracting Parties on the recommendation of the Tribunal. This, however, shall not prevent the Tribunal from sitting and exercising its functions elsewhere whenever the Tribunal considers it desirable.

2. The President and the Registrar shall reside at the seat of the Tribunal.

ARTICLE 14

1. The Tribunal may from time to time form one or more chambers, composed of three or more members as the Tribunal may determine, for dealing with particular categories of cases; for example, cases relating to fishing or seabed exploration or exploitation. The members of each chamber shall be elected from among the members of the Tribunal having regard to any special knowledge, expertise or previous experience which any of the members of the Tribunal may have in relation to the category of cases for which the chamber has been formed. After each election, the Registrar shall communicate to all the Contracting Parties the names of the members of the Tribunal assigned to various chambers.

2. The Tribunal may at any time form a chamber for, dealing with a particular case. The composition of such a chamber shall be determined by the Tribunal with the approval of the parties.

3. Cases shall be heard and determined by the chambers provided for in this Article if the parties so request.

4. A judgment given by any of the chambers provided for in this Article and Article 15 shall be considered as rendered by the Tribunal.

ARTICLE 15

With a view to the speedy despatch of business, including the issuance of provisional orders of protection under Article 26 of the Statute, the Tribunal shall form annually a chamber composed of three or more members which, at the request of the parties; may hear and determine cases by summary procedure. In addition, two members shall be selected for the purpose of replacing members who find it impossible to sit.

ARTICLE 16

1. The Tribunal shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure.

2. When a dispute involves technical questions, such as safety of navigation, ship construction, pollution, scientific research, fishing, or seabed exploration or exploitation, the Tribunal, or the chamber dealing with the dispute, shall be assisted in consideration of the case by two or more technical assessors sitting with it but without the right to vote. These assessors shall be chosen by the President of the Tribunal from the list of qualified persons prepared pursuant to the Rules of the Tribunal.

3. The Tribunal shall, whenever it deems it desirable or the parties to a case request it, refer technical issues of fact to a fact-finding board for non-binding advice. The members of such a board shall be selected from the list provided for in paragraph 2 of this Article.

ARTICLE 17

1. Members of the nationality of each of the parties shall retain their right to sit in the case before the Tribunal.

2. If the Tribunal includes upon the Bench a member of the nationality of one of the parties, any other party may choose a person to sit as member.

3. If the Tribunal includes upon the Bench no member of the nationality of the parties, each of these parties may proceed to choose a member as provided in paragraph 2 of this Article.

4. The provisions of this Article shall apply to the case of Articles 14 and 15. In such cases, the President shall request one or, if necessary, two of the members of the Tribunal forming the chamber to give place to the members of the Tribunal of the nationality of the parties concerned, and, failing such, or if they are unable to be present, to the members specially chosen by the parties.

5. Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt upon this point shall be settled by the decision of the Tribunal.

6. Members chosen as laid down in paragraphs 2, 3, and 4 of this Article shall fulfill the conditions required by Articles 2, 8 (paragraph 2), and 11 of the present Statute. They shall take part in the decision on terms of complete equality with their colleagues.

ARTICLE 18

1. Each member of the Tribunal shall receive an annual salary and a special allowance in respect of each session in which he participates.

2. The President shall receive a special annual allowance.

3. The Vice-President shall receive a special allowance for every day on which he acts as President.

4. The members chosen under Article 17, other than members of the Tribunal, shall receive compensation for each day on which they exercise their functions.

5. These salaries, allowances, and compensation shall be fixed from time to time at a meeting of the Contracting Parties, taking into account the workload of the Tribunal. They may not be decreased during the term of office.

6. The salary of the Registrar shall be fixed at a meeting of the Contracting Parties on the proposal of the Tribunal.

7. Regulations made at the meeting of the Contracting Parties shall fix the conditions under which retirement pensions may be given to members of the Tribunal and to the Registrar, and the conditions under which members of the Tribunal and Registrar shall have their traveling expenses refunded.

8. The above salaries, allowances, and compensation shall be free of all taxation.

ARTICLE 19

The expenses of the Tribunal shall be borne by the Contracting Parties and international organizations having access to the Tribunal in such a manner as shall be decided at a meeting of the Contracting Parties.

CHAPTER II. COMPETENCE OF THE COURT

ARTICLE 20

States, international organizations, and natural and juridical persons may be parties before the Tribunal in any case expressly provided for in this Convention or in an international agreement, public or private, accepted by all the parties to the dispute.

ARTICLE 21

1. As provided for in Article 13 of Chapter ____ of this Convention, the Tribunal shall be open to the Contracting Parties.

2. The conditions under which the Tribunal shall be open to other States, international organizations and natural and juridical persons shall be laid down by the Contracting Parties at a meeting to be held as soon as possible after coming into force of this Convention.

3. When a State which is not a party to this Convention, or an organization or person is a party to a case, the Tribunal shall fix the amount which that party is to contribute towards the expenses of the Tribunal. This provision shall not apply if such State or organization is bearing a share of the expenses of the Tribunal.

ARTICLE 22

The jurisdiction of the Tribunal shall comprise all disputes submitted to it in accordance with this Convention and all matters specifically provided for in any other international agreement, public or private, which confers jurisdiction on the Tribunal, as specified in Article 10 of Chapter — of this Convention.

ARTICLE 23

Subject to Article 3 of Chapter — of this Convention, whenever a treaty or convention already in force provides for reference to a special Tribunal of a subject matter covered by this Convention, the parties to such a treaty or convention may agree to refer the matter to the Law of the Sea Tribunal.

ARTICLE 24

1. The Tribunal shall decide all disputes submitted to it in accordance with Article 16 of Chapter — of this Convention relating to applicable law.

2. Subject to an authorization under Article 96 of the Charter of the United Nations, the Tribunal may request the International Court of Justice to give an advisory opinion on any question of international law.

CHAPTER III. PROCEDURE

ARTICLE 25

1. Cases are brought before the Tribunal, as the case may be, either by the notification of the special agreement or by a written application addressed by a party or parties to the dispute to the Registrar. In either case the subject of the dispute and the parties shall be indicated.

2. The Registrar shall forthwith communicate the application to all concerned.

3. He shall also notify all Contracting Parties.

ARTICLE 26

1. The Tribunal shall have the power to prescribe, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of the parties and to minimize damage to any party pending final adjudication.

2. If the Tribunal is not in session, the provisional measures shall be prescribed by the Chamber of Summary Procedure to be established under Article 15 of this Statute.

3. Notice of the measures prescribed by the Tribunal shall forthwith be given to the parties and to all Contracting Parties.

4. The interim measures prescribed by the Tribunal, or its chamber, shall be binding upon the parties.

ARTICLE 27

The Tribunal shall make orders for the conduct of the case, shall decide the form and time in which each party must present its arguments, and make all arrangements connected with the taking of evidence.

ARTICLE 28

1. Whenever one of the parties does not appear before the Tribunal, or fails to defend its case, the other party may call upon the Tribunal to decide in favor of its claim.

2. The Tribunal must, before doing so, satisfy itself, not only that it has jurisdiction, but also that the claim is well founded in fact and law.

ARTICLE 29

1. All questions shall be decided by a majority of the members of the Tribunal who are present.

2. In the event of an equality of votes, the President or the member who acts in his place shall have a casting vote.

ARTICLE 30

1. The judgment shall state the reasons on which it is based.
2. It shall contain the names of the members of the Tribunal who have taken part in the decision.
3. If the judgment does not represent in whole or in part the unanimous opinion of the members of the Tribunal, any member shall be entitled to deliver a separate opinion.

ARTICLE 31

The decision of the Tribunal has no binding force except between the parties and in respect of that particular case.

ARTICLE 32

1. Should a State or a public international organization consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Tribunal to be permitted to intervene.
2. It shall be for the Tribunal to decide upon this request.

ARTICLE 33

1. Whenever the interpretation or application of this Convention is in question, the Registrar shall notify all Contracting Parties forthwith.
2. Every Contracting Party so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgment will be equally binding upon it.

ARTICLE 34

The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Tribunal shall construe it upon the request of any party.

ARTICLE 35

Unless otherwise decided by the Tribunal, each party shall bear its own costs.

CHAPTER IV. AMENDMENT

ARTICLE 36

1. Amendments to the present Statute shall be effected by the same procedure as is provided by the Law of the Sea Convention for amendments to that Convention.
2. The Tribunal shall have power to propose such amendments to the present Statute as it may deem necessary, through written communications to the Contracting Parties, for consideration in conformity with the provisions of paragraph 1 of this Article.

ANNEX II

Special Procedures

CHAPTER ____ . FISHERIES

Art.—

1. Any dispute between two or more Contracting Parties concerning the application of articles (----) of this chapter, if not settled by negotiation, shall, at the request of any of the parties to the dispute, be submitted to a special committee of [5] members appointed by agreement between the parties and selected from a list of experts on legal, administrative or scientific aspects of marine fisheries, established by the United Nations Food and Agriculture Organization.
2. Failing agreement among the parties within a period of [3] months of the request for settlement of the dispute, the members of the special committee shall, at the request of any party to the dispute, be appointed within a further period of [3] months by the Director-General of FAO, in consultation with the parties to the dispute.

3. Each Contracting Party may designate, for inclusion in the list of experts established by FAO x duly qualified person(s) specializing in the: (a) legal, (b) administrative, and (c) scientific aspects of fisheries.

4. The special committee shall so organize its own procedures as to ensure that each party has the opportunity to be heard and to present its case. It shall also decide how the costs and expenses are to be apportioned between the parties to the dispute, failing agreement by the parties on this matter.

5. The special committee may, at the request of any of the parties, decide on any provisional measures it may deem necessary to protect the rights of the parties to the dispute. These measures shall be binding on the parties.

6. The special committee shall give its decision within five months of the date of appointment of its members, unless it decides that it is necessary to extend the time-limit for a further period which shall not exceed three months.

7. In reaching its decisions, the special committee shall comply with these articles and with the rules of general international law and any special agreements reached between the parties to the dispute with a view to settling the dispute.

8. The decisions of the special committee shall be adopted by a majority vote [and shall be binding on the parties to the dispute].

CHAPTER ____ . POLLUTION

Art.—

1. Any dispute between two or more Contracting Parties concerning the application of articles (____) of this chapter, if not settled by negotiation, shall, at the request of any of the parties to the dispute, be submitted to a committee of x members appointed by agreement between the parties and selected from a list of experts on scientific and technical marine pollution problems established by IMCO.

2. Failing agreement among the parties within a period of x months, the members of the committee shall, at the request of any party to the dispute, be appointed within a further period of x months by the Secretary-General of IMCO, in consultation with the parties to the dispute.

3. Each Contracting Party may designate, for inclusion in the list of experts established by IMCO, x person(s) whose competence in matters of pollution control and conservation of the marine environment is established and generally recognized.

4. The committee may, at the request of any of the parties, decide on any provisional measures it may deem necessary to protect the rights of the parties to the dispute. These measures shall be binding on the parties.

5. The committee shall give its decision within (____) of having been set up. In an emergency, this period may be reduced by agreement between the parties or by a decision of the committee.

6. The decisions of the committee shall be adopted by a majority vote [and shall be binding on the parties to the dispute].

[7. The parties concerned may agree to request the committee to carry out an investigation and establish the facts giving rise to any dispute concerning the interpretation or the application of the provisions of this chapter. In this case, the findings of the committee shall be considered as conclusive. The committee may, on this occasion, formulate recommendations which, without having the force of a decision, shall constitute the basis for a review, by the parties concerned, of the question giving rise to the dispute.]

CHAPTER ____ . SCIENTIFIC RESEARCH

Art.—

1. Any dispute between two or more Contracting Parties concerning the application of articles (____) of this chapter, if not settled by negotiation, shall, at the request of any of the parties to the dispute, be submitted to a committee of x members appointed by agreement between the parties and selected from a list of experts on marine scientific problems established by the Intergovernmental Oceanographic Commission.

2. Failing agreement among the parties within a period of x months, the members of the committee shall, at the request of any party to the dispute, be appointed within a further period of x months by the Director-General of UNESCO, after consultation with the Chairman of the Intergovernmental Oceanographic Commission.

3. Each Contracting Party may designate, for inclusion in the list of experts established by IOC, x person(s) whose competence in the field of marine scientific research is established and generally recognized.

4. The committee may, at the request of any of the parties, decide on any provisional measures it may deem necessary to protect the rights of the parties to the dispute. These measures shall be binding on the parties.

5. The committee shall give its decision within (----) of being set up. In an emergency, this period may be reduced by agreement between the parties or by a decision of the committee.

6. The decisions of the committee shall be adopted by a majority vote [and shall be binding on the parties to the dispute].

7. [The parties concerned may agree to request the committee to carry out an investigation and to establish the facts giving rise to any dispute concerning the interpretation or the application of the provisions of this chapter. In this case, the findings of the committee shall be considered as conclusive. The committee may, on this occasion, formulate recommendations which, without having the force of a decision, shall constitute the basis for a review, by the parties concerned, of the question giving rise to the dispute.]

ANNEX III

CHAPTER ____ . INFORMATION AND CONSULTATION

ARTICLE 1

1. The Contracting Parties, wishing to minimize the occurrence of disputes between them, recognize the desirability of making information available to each other, as promptly as possible, regarding the adoption or application of measures (including legislation, regulations, administrative notices and boundary determinations) falling within the scope of this Convention.

2. For this purpose, each Contracting Party shall communicate such information to the Secretariat of the United Nations, or any other international organization designated by the Secretary-General of the United Nations, which shall promptly publish such information, as well as any reservations, objections and protests communicated by other States in connection with such information.

ARTICLE 2

Each Contracting Party shall respond promptly to a request by any other Contracting Party for consultation with respect to the adoption or application of measures referred to in the preceding article.



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